

SENATOR DAN PATRICK
CONFIDENTIAL TRANSCRIPT

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<p style="text-align: right;">1</p> <p>1 IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS 2 CORPUS CHRISTI DIVISION 3 MARC VEASEY, et al.,) Plaintiffs,) 4) v.) Civil Action 5) No. 2:13-cv-193(NGR) RICK PERRY, et al.,) 6 Defendants.) _____) 7) 8 9 <<<<<HIGHLY CONFIDENTIAL>>>>> 10 ***** 11 ORAL DEPOSITION OF 12 SENATOR DAN PATRICK 13 JULY 11, 2014 14 ***** 15 ORAL DEPOSITION of SENATOR DAN PATRICK, 16 produced as a witness at the instance of the United 17 States of America, and duly sworn, was taken in the 18 above-styled and numbered cause on July 11, 2014, from 19 10:17 a.m. to 6:07 p.m., before Denyce M. Sanders, 20 CSR, RPR, CRR, TCRR, in and for the State of Texas, 21 recorded by machine shorthand, at the offices of 22 Attorney General's Office, 808 Travis, Suite 1520, 23 Houston, Texas, pursuant to the Federal Rules of Civil 24 Procedure and the provisions stated on the record or 25 attached hereto; signature having been waived.</p>	<p style="text-align: right;">3</p> <p>1 OFFICE OF THE ATTORNEY GENERAL DEPUTY ATTORNEY GENERAL FOR 2 INTERGOVERNMENTAL RELATIONS P.O. Box 12548, Capitol Station 3 Austin, Texas 78711 Mr. Jay Dyer 4 512.463.2197 jay.dyer@oag.state.tx.us 5 -and- 6 OFFICE OF THE ATTORNEY GENERAL OFFICE OF THE SOLICITOR GENERAL 7 P.O. Box 12548, Capitol Station Austin, Texas 78711 8 Mr. Arthur C. D'Andrea 9 512.463.2197 arthur.dandrea@oag.state.tx.us 10 11 FOR THE DEFENDANTS RICK PERRY, STATE OF TEXAS, NANDITA BERRY, AND THE DEPARTMENT OF PUBLIC SAFETY: 12 13 OFFICE OF THE ATTORNEY GENERAL TORT LITIGATION DIVISION 14 P.O. Box 12548, Capitol Station Austin, Texas 78711 15 Mr. J. Reed Clay, Jr. 512.463.2197 reed.clay@oag.state.tx.us 16 17 ALSO PRESENT: 18 Ms. Lauren Sutterfield 19 20 21 22 23 24 25</p>
<p style="text-align: right;">2</p> <p>1 APPEARANCES 2 3 FOR THE PLAINTIFF UNITED STATES OF AMERICA: 4 U.S. DEPARTMENT OF JUSTICE Civil Rights Division 950 Pennsylvania Avenue, NW - NWB Room 7254 5 Washington, D.C. 20530 Ms. Anna M. Baldwin 6 202.305.4355 anna.baldwin@usdoj.gov 7 8 FOR THE VEASEY PLAINTIFFS: DERFNER ALTMAN & WILBORN 9 575 King Street, Suite B Charleston, South Carolina 29403 10 Mr. Armand Derfner 843.723.9804 11 aderfner@dawlegal.com 12 13 FOR THE DEFENDANT TEXAS LEAGUE OF YOUNG VOTERS PLAINTIFF-INTERVENORS: 14 WILMER CUTLER PICKERING HALE AND DOOR, LLP 15 1875 Pennsylvania Avenue, NW Washington, D.C. 20006 16 Ms. Danielle Y. Conley 202.663.6262 17 danielle.conley@wilmerhale.com 18 19 FOR THE DEFENDANTS AND WITNESS: 20 OFFICE OF THE ATTORNEY GENERAL OF TEXAS Consumer Protection Division 21 808 Travis, Suite 1520 Houston, Texas 77002 22 Ms. Rosemarie Donnelly 713.225.8919 23 rosemarie.donnelly@texasattorneygeneral.gov 24 -and- 25 -CONTINUED-</p>	<p style="text-align: right;">4</p> <p>1 INDEX 2 ORAL DEPOSITION OF 3 SENATOR DAN PATRICK, JULY 11, 2014 4 Page 5 APPEARANCES..... 2 6 BY MS. BALDWIN..... 9 7 BY MS. CONLEY..... 196 8 BY MR. DERFNER..... 254 9 BY MR. CLAY..... 307 10 BY MS. CONLEY..... 331 11 12 13 14 15 REPORTER CERTIFICATION..... 333 16 17 18 19 20 21 22 23 24 25</p>

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<p style="text-align: right;">13</p> <p>1 MS. DONNELLY: Everything that was</p> <p>2 reviewed has been produced in this litigation.</p> <p>3 Q. (BY MS. BALDWIN) And did you bring any notes</p> <p>4 or documents with you here today?</p> <p>5 A. No.</p> <p>6 (Patrick Exhibit 1 marked/introduced.)</p> <p>7 Q. (BY MS. BALDWIN) I'm going to hand you a</p> <p>8 document to be marked as Exhibit 1, which is the</p> <p>9 document subpoena that was served on you in this case.</p> <p>10 Would you take a moment -- do you recognize</p> <p>11 this document, and in particular Exhibit A beginning</p> <p>12 on page 3, which is the document requests?</p> <p>13 A. Well, I don't believe I have seen it before.</p> <p>14 Q. Were you aware that a document subpoena was</p> <p>15 served on you in this litigation?</p> <p>16 A. Yes.</p> <p>17 Q. And how were these documents searched for?</p> <p>18 Are you aware?</p> <p>19 A. I am not. That was my -- my staff.</p> <p>20 Q. Who on your staff handled that?</p> <p>21 A. John Gibbs.</p> <p>22 Q. And did you have any discussion with</p> <p>23 Mr. Gibbs about that?</p> <p>24 A. No. There may have been other people in the</p> <p>25 office, but John is the one I worked with. And then I</p>	<p style="text-align: right;">15</p> <p>1 that correct?</p> <p>2 A. Correct.</p> <p>3 Q. And did you provide any documents from your</p> <p>4 Gmail address?</p> <p>5 A. I believe I did.</p> <p>6 Q. And do you know, was that in connection with</p> <p>7 this litigation or the prior litigation?</p> <p>8 MS. DONNELLY: Objection. Form.</p> <p>9 A. The documents that I saw yesterday, I can't</p> <p>10 recall.</p> <p>11 Q. (BY MS. BALDWIN) Do you remember roughly when</p> <p>12 you searched for the Gmail documents? Was that this</p> <p>13 year or at an earlier date?</p> <p>14 A. When was the request made?</p> <p>15 Q. If you'll look on the first page of the</p> <p>16 subpoena, which is Exhibit 1 --</p> <p>17 A. Yes.</p> <p>18 Q. -- the return date was for April 2014.</p> <p>19 A. Then I would have searched this year.</p> <p>20 Q. Did you previously search your Gmail account</p> <p>21 for documents in the prior litigation?</p> <p>22 MS. DONNELLY: Objection. Form.</p> <p>23 A. I just don't recall. It's been a long time.</p> <p>24 Q. (BY MS. BALDWIN) And when you were doing</p> <p>25 that search, did you use particular search terms or</p>
<p style="text-align: right;">14</p> <p>1 searched my computer.</p> <p>2 Q. And what did Mr. Gibbs -- let me start over.</p> <p>3 Did Mr. Gibbs provide you the instructions of</p> <p>4 what to search for and how to search your computer?</p> <p>5 A. I believe so. Not certain, but I believe</p> <p>6 that that's who I talked with.</p> <p>7 Q. And what were those instructions?</p> <p>8 A. Can't recall.</p> <p>9 Q. Were they conveyed orally?</p> <p>10 A. Yes. I believe so. I mean, I know that I</p> <p>11 talked to him. I don't know if he -- I don't think he</p> <p>12 sent me anything in writing, but I'm not positive.</p> <p>13 Q. And do you remember, in general, what he told</p> <p>14 you to search for?</p> <p>15 A. I really don't know the -- I really can't</p> <p>16 answer the question. I don't recall exactly</p> <p>17 what -- whatever he asked for at the time, that's what</p> <p>18 I searched for.</p> <p>19 Q. And where did you search? Did you search</p> <p>20 your personal e-mail address?</p> <p>21 A. That's the only area that I searched.</p> <p>22 Q. Okay. And what e-mail address is that?</p> <p>23 A. Danpatrick700@gmail.</p> <p>24 Q. Okay. And so any other searches would have</p> <p>25 been carried out of other sources by your staff; is</p>	<p style="text-align: right;">16</p> <p>1 did you look message by message? How did you do that?</p> <p>2 A. I don't recall.</p> <p>3 Q. Do you keep everything that you receive in</p> <p>4 your Gmail account?</p> <p>5 A. No.</p> <p>6 Q. What -- do you have a regular process on when</p> <p>7 you delete things from your Gmail account?</p> <p>8 A. Not a regular process, but on a fairly</p> <p>9 frequent basis.</p> <p>10 Q. What do you mean by "fairly frequent"?</p> <p>11 A. Could be once a month, could be every couple</p> <p>12 of months.</p> <p>13 Q. And so if you searched for documents in this</p> <p>14 case in 2014, is it likely that many e-mails from 2011</p> <p>15 you would no longer have?</p> <p>16 A. Repeat the question.</p> <p>17 MS. BALDWIN: Can you read that back.</p> <p>18 THE REPORTER: "And so if you searched</p> <p>19 for documents in this case in 2014, is it likely that</p> <p>20 many e-mails from 2011 you would no longer have?"</p> <p>21 A. It depends on the subject.</p> <p>22 Q. (BY MS. BALDWIN) For e-mails related to</p> <p>23 SB 14, is it likely that there were some e-mails that</p> <p>24 you either sent or received in 2011 that you would no</p> <p>25 longer have today in your Gmail account?</p>

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<p style="text-align: right;">17</p> <p>1 A. It's possible.</p> <p>2 Q. Did you ever receive a request from the</p> <p>3 Attorney General's Office not to delete any documents</p> <p>4 related to the subject matter of SB 14?</p> <p>5 A. I don't recall.</p> <p>6 Q. You don't recall seeing anything like that in</p> <p>7 writing asking you not to delete anything?</p> <p>8 A. Before this request or after?</p> <p>9 Q. At any time.</p> <p>10 A. I don't recall. I mean, I don't recall.</p> <p>11 Q. Is it likely if you had received something</p> <p>12 like that you would remember it?</p> <p>13 A. No.</p> <p>14 Q. Would it be important to you to comply with a</p> <p>15 request not to delete e-mails?</p> <p>16 A. Yes.</p> <p>17 Q. And so if it would be important to you to</p> <p>18 comply with that, is it likely that you would, in</p> <p>19 fact, remember it?</p> <p>20 A. No. I mean, I don't know what else to tell</p> <p>21 you. It would be important that I would follow the</p> <p>22 instructions, but I don't recall if --</p> <p>23 Q. But you don't recall actually receiving</p> <p>24 those, is your point?</p> <p>25 A. Right.</p>	<p style="text-align: right;">19</p> <p>1 A. Not that I recall.</p> <p>2 Something I'd like to clarify so that you</p> <p>3 have an understanding of this that may help moving</p> <p>4 forward, even though I was listed as an author of the</p> <p>5 bill, I didn't write the bill, nor was I an active</p> <p>6 author.</p> <p>7 So that you understand the process, when a</p> <p>8 senator files a bill, you take the paperwork to the</p> <p>9 clerk and you can submit it and you're the author.</p> <p>10 You then can go to other senators and say, "Would you</p> <p>11 like to co-author the bill with me?" It means we</p> <p>12 support the bill, and we add our name to it.</p> <p>13 We also have a process from time to time</p> <p>14 where senators, before they file the bill, they're the</p> <p>15 author of it. They will ask other senators, "Would</p> <p>16 you like to be, not a co-author, but in essence a</p> <p>17 joint author?"</p> <p>18 Because there was some confusion on that in</p> <p>19 my last deposition on this because, quite frankly, I</p> <p>20 didn't even remember that had happened.</p> <p>21 So Senator Fraser, who was the author of the</p> <p>22 bill and did the work on the bill -- apparently, I had</p> <p>23 forgotten -- had gone to the senators before he filed</p> <p>24 it and allowed members to be authors.</p> <p>25 So my involvement of the bill, outside of an</p>
<p style="text-align: right;">18</p> <p>1 Q. If we could look back at the specifics of the</p> <p>2 actual document request --</p> <p>3 A. Which page?</p> <p>4 Q. -- on page 4.</p> <p>5 A. All right.</p> <p>6 Q. Number 3 is a request for "All documents</p> <p>7 related to any calculations, reports, audits,</p> <p>8 estimates, projections, or other analyses related to</p> <p>9 the effect that SB 14 imposes, or that SB 14 was</p> <p>10 projected to impose, upon minority voters or on voters</p> <p>11 who are members of a language minority group, from</p> <p>12 December 1, 2010, through May 27, 2011."</p> <p>13 Did you have any documents that were</p> <p>14 responsive to that request?</p> <p>15 A. Not that I recall.</p> <p>16 Q. What about Number 4: "All documents related</p> <p>17 to any calculations, reports, estimates, projections,</p> <p>18 or other analyses related to the impact of SB 14 on</p> <p>19 voter turnout or voter registration," did you have any</p> <p>20 documents responsive to that request?</p> <p>21 A. Not that I recall.</p> <p>22 Q. And have you ever had, not just presently</p> <p>23 that you would maintain them, but have you ever had</p> <p>24 any documents that would have been responsive to those</p> <p>25 requests in your possession?</p>	<p style="text-align: right;">20</p> <p>1 amendment, was primarily listening to testimony and</p> <p>2 voting for the bill. So that's why -- and I don't</p> <p>3 recall that I ever had these documents. But I</p> <p>4 would -- this is totally different than a bill that I</p> <p>5 would actually be the author of.</p> <p>6 As chairman of education, this session, for</p> <p>7 example, I authored a number of bills and I would have</p> <p>8 documents related to those more than I would have in</p> <p>9 this case. So I have -- I would have had probably</p> <p>10 little, if any, of those types of documents.</p> <p>11 So I just want you to understand that process</p> <p>12 because it was confusing in the last deposition and we</p> <p>13 didn't really I think clarify that with the attorneys</p> <p>14 asking the questions until in the middle of the day.</p> <p>15 So if that will be helpful, going along.</p> <p>16 Q. Thank you. I appreciate that.</p> <p>17 A. Okay.</p> <p>18 Q. So that I understand, for SB 14, you were</p> <p>19 listed as effectively a joint author on the prefiling</p> <p>20 end, but it was Senator Fraser who had actually</p> <p>21 authored the bill; is that your testimony?</p> <p>22 A. Correct.</p> <p>23 Q. And so just so I have the terminology</p> <p>24 correct, it would be most accurate to call you a joint</p> <p>25 author rather than co-author?</p>

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<p style="text-align: right;">21</p> <p>1 A. You could call me a joint author or an 2 author. 3 Q. Okay. 4 A. There is a difference between, again, being a 5 co-author. 6 Q. Okay. And what's the difference between an 7 author versus co-author? Is that just the before 8 filing/after filing distinction? 9 A. That's really the -- that's the distinction. 10 Q. Okay. Thank you. 11 And just to wrap up the topics on the 12 document subpoena, if you could look on page 5, topics 13 Number 8, and 9. 14 A. Yes. 15 Q. Topic Number 8 is: "All documents related to 16 any calculations, reports, audits, estimates, 17 projections, or other analyses related to the effect 18 that voter identification requirements impose upon 19 minority voters or voters who are members of a 20 language minority group, from January 1, 2005, through 21 November 30, 2010." 22 Is it correct that you've never had any 23 documents on that topic in your possession as far as 24 you're aware? 25 A. Yeah, I don't recall if I did or did not.</p>	<p style="text-align: right;">23</p> <p>1 I would have very many documents or e-mails or 2 anything else since 2011 to begin with. 3 Q. And is that because of a general document 4 retention policy that you have -- I mean, once -- let 5 me ask that differently. 6 Once a bill has been voted on and the session 7 has ended, what do you normally do with the working 8 files related to that bill? 9 A. Well, it would -- it would depend on our 10 involvement in the bill. If we were just voting for 11 the bill, we might not have any documents except 12 something that, if you were a senator, you may have 13 sent me. 14 And then we would have the bill book, which 15 would be in the Senate Journal. You would have copies 16 or access to that, which would be the actual 17 legislation. We wouldn't keep that in our office. 18 So it would only be maybe correspondence with 19 a constituent or something, "Why did you vote for 20 that?", or "Why did you vote against it?", or -- but 21 it wouldn't be -- it wouldn't be a volume of 22 documents. 23 And to further help you understand the 24 process, so that you know -- so that you know I'm 25 being as candid as I can be on this -- is last</p>
<p style="text-align: right;">22</p> <p>1 Q. And the same with respect to 9: "All 2 documents related to any calculations, reports, 3 estimates, projections, or any other analyses related 4 to the impact of voter identification requirements on 5 voter turnout or voter registration, from January 1, 6 2005, through November 30, 2010." 7 A. I don't recall. 8 Q. You didn't produce any documents on that 9 topic, correct? 10 A. You know, that, I don't even -- I -- I don't 11 recall, and I -- if I did, I haven't seen them since. 12 Q. Okay. But you're not aware of ever even 13 having any documents on topic Number 9; is that 14 correct? 15 A. Yeah, again, I don't recall that I did or did 16 not. 17 Another point for you to note -- just to help 18 us move through this -- that once a bill is passed, I 19 don't want to say that the file closes on it, but you 20 move on. We cast somewhere in the neighborhood of 21 3500 to 4,000 votes a session, pass maybe a thousand 22 bills, give or take a few hundred. 23 So whether I'm an author, a co-author, or 24 just someone who voted for or against a bill, once 25 that's gone, you move on. So I would not expect that</p>	<p style="text-align: right;">24</p> <p>1 session, for example, I was chair of education on 2 higher education, criminal justice, transportation, 3 redistrict -- redistricting, Sunset and finance. 4 So, literally, we take the issues as we take 5 them and then we move on, and there's -- for me, 6 personally, and I -- you know, I can't speak for other 7 senators, but you move forward. 8 Q. And so if you had received constituent 9 correspondence, would that be maintained indefinitely 10 or would you get rid of that once the issue is done? 11 A. I don't know what the -- the procedure is on 12 that, how long those are retained. 13 Q. Is that a -- something that each legislative 14 office sets? 15 A. I don't know. I don't know. 16 Q. To get a little bit more of your background, 17 Senator Patrick, could you tell me how long you've 18 served in the Senate? 19 A. Since 2007 was my first session. 20 Q. And so you first ran in 2006? 21 A. Correct. 22 Q. And had you ever run for public office before 23 that? 24 A. No. 25 Q. And you represent Senate District 7; is that</p>

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<p style="text-align: right;">25</p> <p>1 correct?</p> <p>2 A. Yes.</p> <p>3 Q. And what areas of Texas are included in that?</p> <p>4 A. It's all confined to one county, Harris</p> <p>5 County, and it's primarily west Harris County</p> <p>6 with -- with a little bit -- an area a little towards</p> <p>7 the city. Since then we've had redistricting and my</p> <p>8 district has changed a little bit. I have less of the</p> <p>9 city as population has shifted. But it's primarily</p> <p>10 west Harris County.</p> <p>11 Q. And what are the racial demographics of your</p> <p>12 district?</p> <p>13 A. I don't know specifically.</p> <p>14 Q. Do you know generally?</p> <p>15 A. I really have not seen data in a while on</p> <p>16 that. I -- you know, I believe that -- I -- it seems</p> <p>17 to me I recall seeing data at some point it was in the</p> <p>18 30 percent minority, but I'm not positive.</p> <p>19 Q. Okay. And when you say "30 percent</p> <p>20 minority," does that include both African-Americans</p> <p>21 and Latinos?</p> <p>22 A. Yes. Again, it seems to me I either read</p> <p>23 that or heard it somewhere, and I don't know if that</p> <p>24 was 2007 or 2010, or when that was last, but...</p> <p>25 Q. And you mentioned earlier that you're on the</p>	<p style="text-align: right;">27</p> <p>1 A. Sorry.</p> <p>2 Q. Trying to use the terminology as well.</p> <p>3 A. Yeah, I know. This session, did I sponsor</p> <p>4 any election-related law? I don't recall. I</p> <p>5 think -- I believe I sponsored 70 or 80 bills, but I</p> <p>6 don't recall.</p> <p>7 Q. And do you have any leadership roles in the</p> <p>8 Senate during the time that you served?</p> <p>9 A. Just chair of education.</p> <p>10 Q. Okay. And is there a Tea Party caucus in the</p> <p>11 Senate?</p> <p>12 A. Oh, yes. Yes. I'm chair of the Tea Party</p> <p>13 caucus.</p> <p>14 Q. Okay.</p> <p>15 A. Yes.</p> <p>16 Q. And what does that role involve?</p> <p>17 A. It was we would meet with constituents,</p> <p>18 grassroots folks, maybe once a month during session,</p> <p>19 so maybe -- and not every month, but maybe four or</p> <p>20 five times, usually on a Sunday. That was the only</p> <p>21 time we really could meet for a couple of hours and</p> <p>22 listen to their thoughts and we would share our</p> <p>23 thoughts. It was more of a listening.</p> <p>24 Q. And were those organizations both from within</p> <p>25 your district and other parts of the state?</p>
<p style="text-align: right;">26</p> <p>1 Redistricting Committee?</p> <p>2 A. I was.</p> <p>3 Q. Okay. And was looking at demographic</p> <p>4 information of various districts, including your own,</p> <p>5 something that you did as part of your role in the</p> <p>6 Redistricting Committee?</p> <p>7 A. My role was very small in that committee.</p> <p>8 That was primarily handled by the chairman.</p> <p>9 Q. But regardless of how large your role was,</p> <p>10 was looking at demographic data something that you did</p> <p>11 as part of your work on the Redistricting Committee?</p> <p>12 A. It probably was at some point. Again, that's</p> <p>13 been several years, so I don't -- I don't recall.</p> <p>14 Q. Before redistricting, was your district</p> <p>15 majority Anglo?</p> <p>16 A. Yes.</p> <p>17 Q. And it was after redistricting as well?</p> <p>18 A. Yes.</p> <p>19 Q. And do you know if it became more or less so?</p> <p>20 A. I don't know.</p> <p>21 Q. During the 83rd session of the Texas</p> <p>22 legislature, have you sponsored any election-related</p> <p>23 or voter-related bills?</p> <p>24 A. Which year was the 83rd?</p> <p>25 Q. This most recent.</p>	<p style="text-align: right;">28</p> <p>1 A. Statewide.</p> <p>2 Q. Statewide. And is chair of the Tea Party</p> <p>3 caucus an elected position within the caucus? I</p> <p>4 mean --</p> <p>5 A. Yes.</p> <p>6 Q. And how many members of the Senate were also</p> <p>7 members of the caucus?</p> <p>8 A. Only -- one for sure. Maybe one or two more.</p> <p>9 I don't recall.</p> <p>10 Q. And who were those?</p> <p>11 A. I said one for sure. I believe it was</p> <p>12 Senator Birdwell, but not -- now I'm not positive, but</p> <p>13 I believe so.</p> <p>14 Q. Okay. And the other senator who you think</p> <p>15 may have been?</p> <p>16 A. Might have been -- you know, there's a</p> <p>17 difference between people who join and actually</p> <p>18 participate, so that's what I'm trying to remember.</p> <p>19 There may have -- maybe Senator Campbell, but I'm</p> <p>20 not -- I'd have to go back. I don't recall.</p> <p>21 Q. Was --</p> <p>22 A. It was mostly House -- I'm sorry,</p> <p>23 mostly -- there were more House members.</p> <p>24 Q. Okay. So the caucus included both members of</p> <p>25 the House and of the Senate?</p>

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<p style="text-align: right;">29</p> <p>1 A. Correct.</p> <p>2 Q. And did you work with members of the House to</p> <p>3 advance legislation regardless of which chamber it was</p> <p>4 currently in?</p> <p>5 A. We do that regardless of caucus work. That's</p> <p>6 a -- we work with them and they work with us on a</p> <p>7 variety of bills.</p> <p>8 Q. But did the Tea Party caucus in particular</p> <p>9 work across chambers to pass and promote legislation?</p> <p>10 A. I don't believe, and I can always be</p> <p>11 corrected, but -- on this, I don't believe that there</p> <p>12 was ever a bill that was generated out of a caucus</p> <p>13 meeting that I carried or they carried. It was more</p> <p>14 of listening to what voters had to say in this case</p> <p>15 and sharing with them what we were working on.</p> <p>16 So it was more of an -- more of an update on</p> <p>17 what was happening than it was working on legislation.</p> <p>18 The legislation that we worked on, we would have been</p> <p>19 working on regardless.</p> <p>20 Q. Right. But the conversations were designed</p> <p>21 to advance legislation that you were working on; is</p> <p>22 that fair to say?</p> <p>23 A. I don't know that I would characterize it</p> <p>24 that way. We just discussed legislation.</p> <p>25 Q. That you were supporting?</p>	<p style="text-align: right;">31</p> <p>1 A. With all that, I -- you know, I don't recall.</p> <p>2 What I do remember is what I -- what I believe is</p> <p>3 accurate, and I can be corrected, the Tea Party caucus</p> <p>4 was formed in -- sometime right before the -- that</p> <p>5 would have been the 82nd session, I guess.</p> <p>6 MR. DYER: 2011.</p> <p>7 THE WITNESS: Okay. I can never</p> <p>8 remember those.</p> <p>9 A. Maybe in December was our first meeting. I</p> <p>10 believe we took up voter ID in January. So I'm not</p> <p>11 sure that we ever -- that that was actually a topic.</p> <p>12 Could have been. I -- I mean, I don't really recall,</p> <p>13 but that would have been very early on, so...</p> <p>14 Q. (BY MS. BALDWIN) So you don't have any</p> <p>15 specific recollections of any conversation during Tea</p> <p>16 Party caucus meetings about the subject of voter ID</p> <p>17 legislation?</p> <p>18 A. Nothing -- nothing specific.</p> <p>19 Q. Anything general?</p> <p>20 A. No. I mean, I don't recall anything general.</p> <p>21 We may have talked about it. We may not have. Again,</p> <p>22 I think we had one -- maybe one organizational meeting</p> <p>23 in -- in December right before a session. But we may</p> <p>24 not have met until after the bill had already passed</p> <p>25 the first time. I just don't recall.</p>
<p style="text-align: right;">30</p> <p>1 A. Not always.</p> <p>2 Q. But you did discuss legislation that you were</p> <p>3 supporting?</p> <p>4 A. Sure.</p> <p>5 Q. And did you have any discussions about voter</p> <p>6 ID with the Tea Party caucus?</p> <p>7 MS. DONNELLY: I'm going to assert</p> <p>8 legislative privilege to that question.</p> <p>9 As to communications other members of</p> <p>10 the legislature had with you privately, please don't</p> <p>11 discuss that. It is their privilege to waive. You</p> <p>12 can talk about what was public statements. You can</p> <p>13 also talk about your own statements under seal</p> <p>14 pursuant to the judge's order, but please do not</p> <p>15 divulge communications that other members of the</p> <p>16 legislature made to you privately.</p> <p>17 Subject to that objection, go ahead and</p> <p>18 answer.</p> <p>19 A. Would you repeat the question for me?</p> <p>20 MS. DONNELLY: Sorry.</p> <p>21 THE WITNESS: That's all right.</p> <p>22 MS. BALDWIN: Could you repeat the</p> <p>23 question.</p> <p>24 THE REPORTER: "And did you have any</p> <p>25 discussions about voter ID with the Tea Party caucus?"</p>	<p style="text-align: right;">32</p> <p>1 Q. But even after the bill had passed the</p> <p>2 Senate, when it was still moving through the House, do</p> <p>3 you recall any meetings with the Tea Party caucus</p> <p>4 about the bill at that point?</p> <p>5 A. You know, I don't.</p> <p>6 Q. And, Senator Patrick, you're currently</p> <p>7 running for statewide office --</p> <p>8 A. Yes.</p> <p>9 Q. -- in Texas?</p> <p>10 A. Yes.</p> <p>11 Q. You're running for lieutenant governor,</p> <p>12 correct?</p> <p>13 A. Yes.</p> <p>14 Q. Are you employed in a capacity other than as</p> <p>15 a Texas senator?</p> <p>16 A. I need to be.</p> <p>17 Q. And who is your employer?</p> <p>18 A. Patrick Broadcasting.</p> <p>19 Q. Okay. And what's your title at Patrick</p> <p>20 Broadcasting?</p> <p>21 A. I'm not sure, but I think I'm the general</p> <p>22 manager or president. It's my company.</p> <p>23 Q. He who wears all hats?</p> <p>24 A. Yes.</p> <p>25 Q. And what are your responsibilities at Patrick</p>

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<p style="text-align: right;">33</p> <p>1 Broadcasting?</p> <p>2 A. Operating the businesses as any owner would,</p> <p>3 being responsible for hiring. Not directly. I have</p> <p>4 staff that does that. But, I mean, being responsible</p> <p>5 for staff, being responsible for the success of the</p> <p>6 business, overseeing -- it's a radio station --</p> <p>7 overseeing our on-air product and -- everything from</p> <p>8 vacuuming the floor, if needed, to call on clients, to</p> <p>9 being on the air, which I'm not very often</p> <p>10 as -- because of candidate rules.</p> <p>11 Q. Okay. Prior to running for statewide office,</p> <p>12 were you regularly on the air even during the time</p> <p>13 that you were serving in the Texas Senate?</p> <p>14 A. I was regularly on the air. Once I was</p> <p>15 elected in '07, that time slowly but surely diminished</p> <p>16 as my responsibilities increased.</p> <p>17 Q. Okay. So during the time that the</p> <p>18 legislature wasn't in session, did you have a regular</p> <p>19 on-air --</p> <p>20 A. Yes.</p> <p>21 Q. -- time?</p> <p>22 A. I'm sorry. Yes.</p> <p>23 Q. And what about when the legislature was in</p> <p>24 session, did you...?</p> <p>25 A. The last two sessions, maybe the last</p>	<p style="text-align: right;">35</p> <p>1 Texas. If you look at the polling, I believe at one</p> <p>2 point 90 percent of Texan voters -- which would be</p> <p>3 Republicans, Democrats, Independents -- were in</p> <p>4 support of it. I believe I saw a poll with that. But</p> <p>5 it was a very high percentage.</p> <p>6 But it was no more or -- I wouldn't say no</p> <p>7 less, but there were many important issues. It was</p> <p>8 one of many issues that people would talk about. And</p> <p>9 some of that was not so much seasonal, but, you know,</p> <p>10 talk radio is often driven by the headlines in the</p> <p>11 news. So it might be a hot topic if there was a story</p> <p>12 and then it might not be discussed for months.</p> <p>13 Q. But you would say that the issue of voter ID</p> <p>14 was important to your listeners on the radio?</p> <p>15 A. I believe the issue of photo voter ID -- I</p> <p>16 know we talked about that early -- to be clear, was</p> <p>17 important to, apparently -- based on some polls that I</p> <p>18 read in the papers and saw somewhere -- 80, 90 percent</p> <p>19 of the people in Texas.</p> <p>20 Q. Separating out the question of the polls,</p> <p>21 though, just from your sense as both a politician and</p> <p>22 in this dual role as a broadcaster, did you get a</p> <p>23 sense from your callers that voter ID was an</p> <p>24 important issue -- photo voter ID was an important</p> <p>25 issue to them?</p>
<p style="text-align: right;">34</p> <p>1 three -- I was not as busy in 7th or freshman, so I</p> <p>2 was able to be on a bit more. But the last several</p> <p>3 sessions, I've just not been able to be on. You know,</p> <p>4 I would call in as a guest, but -- try to do a show on</p> <p>5 occasion, but not very often.</p> <p>6 Q. And so it was your show essentially?</p> <p>7 A. It was. But I was like Johnny Carson at the</p> <p>8 end of his career, seldom there.</p> <p>9 Q. Okay. And would you describe it as a</p> <p>10 political talk show?</p> <p>11 A. Yes.</p> <p>12 Q. And a conservative political talk show?</p> <p>13 A. Yes.</p> <p>14 Q. Did listeners call in? I mean, what was the</p> <p>15 general kind of format?</p> <p>16 A. Hopefully. Or I just talked to myself for a</p> <p>17 couple of hours.</p> <p>18 Q. Got it.</p> <p>19 Was voter ID something that you talked about</p> <p>20 on the air?</p> <p>21 A. I'm sure we did.</p> <p>22 Q. Yeah. Was voter ID an important issue to you</p> <p>23 as a Texas senator?</p> <p>24 A. It was an important issue to listeners. It</p> <p>25 was an important issue to voters and citizens in</p>	<p style="text-align: right;">36</p> <p>1 MS. DONNELLY: Objection. Form.</p> <p>2 Go ahead.</p> <p>3 A. In my view, the issue of photo voter ID was</p> <p>4 important, but so were a number of other issues.</p> <p>5 Q. (BY MS. BALDWIN) When you say "a number of</p> <p>6 other issues," are we talking about maybe three or</p> <p>7 four? I mean, how many other issues would you say</p> <p>8 were of similar importance?</p> <p>9 MS. DONNELLY: I'm going to object to</p> <p>10 form.</p> <p>11 THE WITNESS: So do you want her to</p> <p>12 restate that?</p> <p>13 MS. DONNELLY: You can answer if you</p> <p>14 know. It's vague. It's confusing. You can answer if</p> <p>15 you have an answer.</p> <p>16 A. I would -- I would say more than two or</p> <p>17 three. There are, again, depending -- you know, you</p> <p>18 have a broad -- it's a broad constituency. And for</p> <p>19 some people, some issues are very -- there may be</p> <p>20 issues to you that are very important, but to -- you</p> <p>21 know, are -- it's not the most important. So there</p> <p>22 are many issues.</p> <p>23 As we like to say in the legislature, any</p> <p>24 bill that passes is really important to someone. We</p> <p>25 may look at bills as -- we may say, "Well, that's a</p>

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<p style="text-align: right;">37</p> <p>1 really important bill," and that's -- and one of the</p> <p>2 things that I learned early on, and I think any</p> <p>3 legislator would tell you, that any bill that passes</p> <p>4 is important to someone. So there are lots of</p> <p>5 important bills.</p> <p>6 Q. (BY MS. BALDWIN) Do you think that the</p> <p>7 grassroots support for photo voter ID was important to</p> <p>8 passing the bill ultimately?</p> <p>9 MS. DONNELLY: Objection. Form.</p> <p>10 You can answer.</p> <p>11 A. I think that -- when you say "grassroots,"</p> <p>12 what do you mean by "grassroots"?</p> <p>13 Q. (BY MS. BALDWIN) Do you think the support of</p> <p>14 regular people who -- the callers to your show, for</p> <p>15 example, the broad base of support -- let me strike</p> <p>16 that.</p> <p>17 Let me just switch topics a little bit.</p> <p>18 A. Sure.</p> <p>19 Q. You mentioned some polling that you were</p> <p>20 aware of. Did you ever see the specific poll</p> <p>21 questions that you're referring to that reflected a</p> <p>22 particular level of support for photo voter ID?</p> <p>23 A. I would imagine that I read the questions in</p> <p>24 a newspaper article. Did I see the actual poll? Only</p> <p>25 as it would have been reported, to my knowledge. I've</p>	<p style="text-align: right;">39</p> <p>1 A. The number of people interviewed? I don't</p> <p>2 recall.</p> <p>3 Q. And do you have any idea of how they did the</p> <p>4 sampling to ensure that the population of people they</p> <p>5 were talking to is a representative sample?</p> <p>6 A. No.</p> <p>7 Q. So you just know the results, you don't</p> <p>8 really understand any separate way to measure the</p> <p>9 validity of the survey; is that fair to say?</p> <p>10 MS. DONNELLY: Objection. Form.</p> <p>11 A. I wouldn't -- that's how you're</p> <p>12 characterizing it. I wouldn't characterize it that</p> <p>13 way. I just don't know the makeup of the poll.</p> <p>14 Q. (BY MS. BALDWIN) Do you know who conducted</p> <p>15 the poll?</p> <p>16 A. I did see one poll by Baseline, Mike</p> <p>17 Baseline. I don't know who did the other polls that</p> <p>18 were reported on by the media.</p> <p>19 Q. Would you agree that the way the polling</p> <p>20 questions are asked is sometimes important to what</p> <p>21 response is given?</p> <p>22 A. That's the way you're characterizing that. I</p> <p>23 would not characterize it that way.</p> <p>24 Q. In general.</p> <p>25 A. I don't know.</p>
<p style="text-align: right;">38</p> <p>1 seen results of polling.</p> <p>2 But there were frequent articles, as I</p> <p>3 recall, in the newspapers at the time, or online</p> <p>4 somewhere, because this issue went on a number of</p> <p>5 years, as you know, that would -- it was usually</p> <p>6 always the same, that the vast majority of</p> <p>7 Republicans, Democrats, and Independents, supported</p> <p>8 the legislation.</p> <p>9 Q. And do you know if that poll ever asked, "Do</p> <p>10 you support photo ID that requires voters to have...",</p> <p>11 and then listed specific forms of identification?</p> <p>12 A. I don't.</p> <p>13 Q. And do you know if the poll question said,</p> <p>14 "Would you still support photo ID even if you knew</p> <p>15 that racial minorities were disproportionately less</p> <p>16 likely to have acceptable ID? Do you know if that was</p> <p>17 part of the polling?"</p> <p>18 MS. DONNELLY: Objection to the form of</p> <p>19 the question.</p> <p>20 You can answer. Go ahead.</p> <p>21 A. I wouldn't know.</p> <p>22 Q. (BY MS. BALDWIN) Do you know what the</p> <p>23 response rate was for any of those polls, overall?</p> <p>24 A. What the response rate was?</p> <p>25 Q. Yeah.</p>	<p style="text-align: right;">40</p> <p>1 Q. Do you think that all polls are -- fairly</p> <p>2 represent the actual opinion of the population?</p> <p>3 A. It depends on the poll.</p> <p>4 Q. Can polls be used unfairly for political</p> <p>5 ends?</p> <p>6 A. Don't know.</p> <p>7 Q. Do you have any experience with that as a</p> <p>8 candidate?</p> <p>9 A. Not really.</p> <p>10 Q. Are you familiar with the term "push poll"?</p> <p>11 A. Yes.</p> <p>12 Q. What do you understand by the term "push</p> <p>13 poll"?</p> <p>14 A. Push poll, you would ask questions in a way</p> <p>15 to solicit answers in a particular way.</p> <p>16 Q. And you don't know whether any of the numbers</p> <p>17 that you're referring to would be more accurately</p> <p>18 characterized as push polls or not; is that fair?</p> <p>19 A. Correct, I would not know.</p> <p>20 Q. Do you currently hold a Texas driver's</p> <p>21 license, Senator Patrick?</p> <p>22 A. Yes.</p> <p>23 Q. And do you recall when you last renewed your</p> <p>24 driver's license?</p> <p>25 A. No.</p>

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<p style="text-align: right;">41</p> <p>1 Q. Do you recall whether you did that in person?</p> <p>2 A. I don't recall. I believe the law states,</p> <p>3 and I'm not certain, that you renew online and every</p> <p>4 so many years you do it in person. So I don't recall</p> <p>5 when I last renewed it, how I renewed it.</p> <p>6 Q. Do you recall the last time you went to a DPS</p> <p>7 office?</p> <p>8 A. No.</p> <p>9 Q. No recollection of renewing a driver's</p> <p>10 license or getting it initially at DPS?</p> <p>11 A. At some point I went to a DPS office, but I</p> <p>12 just don't remember one.</p> <p>13 Q. Do you recall having to wait ever at a DPS</p> <p>14 office for services that you were there to receive?</p> <p>15 A. Not -- I don't recall a long wait. I mean,</p> <p>16 I'm trying to actually think of the last time. I just</p> <p>17 don't recall.</p> <p>18 Q. Do you know how far away the closest DPS</p> <p>19 office is from, say, your house?</p> <p>20 A. Not exactly.</p> <p>21 Q. Do you know how you would get there if you</p> <p>22 didn't have a car?</p> <p>23 A. How would I get there if I didn't have a car?</p> <p>24 Q. Uh-huh.</p> <p>25 A. I would ask a friend.</p>	<p style="text-align: right;">43</p> <p>1 Q. (BY MS. BALDWIN) Let me try it one more time.</p> <p>2 A. I'm trying to follow you and I want to get</p> <p>3 this right.</p> <p>4 Q. Can the majority of your constituents reach a</p> <p>5 DPS office using public transportation, to the best of</p> <p>6 your knowledge?</p> <p>7 MS. DONNELLY: Please don't speculate.</p> <p>8 A. Probably -- probably not.</p> <p>9 Q. (BY MS. BALDWIN) When was the last time you</p> <p>10 voted, Senator Patrick?</p> <p>11 A. This past runoff.</p> <p>12 Q. And did you vote on election day?</p> <p>13 A. No, I don't believe --</p> <p>14 MR. DERFNER: Could you speak up a</p> <p>15 little bit?</p> <p>16 THE WITNESS: Yes.</p> <p>17 A. Did I vote on election day? I don't believe</p> <p>18 I did. I believe I voted early.</p> <p>19 Q. (BY MS. BALDWIN) Did you vote in person</p> <p>20 early?</p> <p>21 A. I voted in person and I believe it was early.</p> <p>22 Q. And do you prefer to vote in person?</p> <p>23 A. If you're under 65, which I still can claim</p> <p>24 that title, and unless you're away and get a waiver,</p> <p>25 you vote in person.</p>
<p style="text-align: right;">42</p> <p>1 Q. Do you know, is the DPS office accessible by</p> <p>2 public transportation from your house?</p> <p>3 A. I would think not.</p> <p>4 Q. Do you think -- is that pretty common in your</p> <p>5 district, that to get from residential areas to the</p> <p>6 DPS office there is public transportation?</p> <p>7 A. Did -- repeat that again, how you said that.</p> <p>8 THE REPORTER: "Do you think -- is that</p> <p>9 pretty common in your district, that to get from</p> <p>10 residential areas to the DPS office there is public</p> <p>11 transportation?"</p> <p>12 MS. BALDWIN: Is not public</p> <p>13 transportation.</p> <p>14 THE REPORTER: Is not?</p> <p>15 MS. DONNELLY: Wait. This is getting</p> <p>16 confusing. Start over.</p> <p>17 Q. (BY MS. BALDWIN) Okay. Let me start over.</p> <p>18 A. Okay.</p> <p>19 Q. Would you agree that it's more common than</p> <p>20 not in your district for there not to be public</p> <p>21 transportation to get to the DPS office?</p> <p>22 MS. DONNELLY: Object. Form.</p> <p>23 If you understand it, you can answer.</p> <p>24 A. I'm slightly confused, but I think I</p> <p>25 understand what you're trying to ask me.</p>	<p style="text-align: right;">44</p> <p>1 Q. Do you have a copy of your birth certificate,</p> <p>2 Senator Patrick?</p> <p>3 A. I'm not sure. I think I do, but not sure.</p> <p>4 Q. And do you know, does your birth certificate</p> <p>5 reflect your current name?</p> <p>6 A. If it reflects a name, it would not be my</p> <p>7 current name because I changed my name. But I don't</p> <p>8 know if it has my name on it or not. I haven't seen</p> <p>9 it in a long time.</p> <p>10 Q. Do you know how you would get a copy of it if</p> <p>11 you needed it?</p> <p>12 A. I would find out.</p> <p>13 Q. And how would you go about doing that?</p> <p>14 A. I would make a call to the city of my birth,</p> <p>15 which was Baltimore, and I would find out how to get a</p> <p>16 copy of a birth certificate.</p> <p>17 Q. And do you know how much that would cost?</p> <p>18 A. No.</p> <p>19 Q. And do you know if there would be any</p> <p>20 additional fees to update your name on your birth</p> <p>21 certificate?</p> <p>22 A. Don't know that.</p> <p>23 Q. Prior to the passage of SB 14, do you know</p> <p>24 how a voter's identity was verified at the polls in</p> <p>25 Texas?</p>

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12 (Pages 45 to 48)

<p style="text-align: right;">45</p> <p>1 A. No.</p> <p>2 Q. I'm going to represent to you that prior to</p> <p>3 the passage of SB 14, voters could receive and vote a</p> <p>4 regular ballot by showing their voter registration</p> <p>5 card and providing their signature.</p> <p>6 In your opinion was showing a voter</p> <p>7 registration card and providing a signature at the</p> <p>8 polls an adequate way to verify a voter's identity?</p> <p>9 MS. DONNELLY: You're asking him based</p> <p>10 upon your representation?</p> <p>11 MS. BALDWIN: Yes.</p> <p>12 MS. DONNELLY: You can answer if you</p> <p>13 understand.</p> <p>14 A. Would you -- would you repeat that for me?</p> <p>15 Q. (BY MS. BALDWIN) In your opinion, was showing</p> <p>16 a voter registration card and providing a signature at</p> <p>17 the polls an adequate way to verify a voter's</p> <p>18 identity?</p> <p>19 A. No.</p> <p>20 Q. Why is that?</p> <p>21 A. Because there was no proof of -- that you</p> <p>22 were that person.</p> <p>23 Q. So having a voter registration card didn't</p> <p>24 prove that you were the person. Why is that?</p> <p>25 A. Because there was no proof, simply because I</p>	<p style="text-align: right;">47</p> <p>1 MS. DONNELLY: Objection. Form.</p> <p>2 You can answer.</p> <p>3 A. I really don't understand the question.</p> <p>4 Q. (BY MS. BALDWIN) What don't you understand</p> <p>5 about it so I can try and --</p> <p>6 MS. DONNELLY: "Failed to prevent" I</p> <p>7 think is causing the problem.</p> <p>8 A. Yeah. Yeah. That's what I don't understand,</p> <p>9 failed to prevent fraud. Failed to prevent fraud is</p> <p>10 confusing to me.</p> <p>11 Q. (BY MS. BALDWIN) Sir, are you aware of any</p> <p>12 instances in which there was in-person voter</p> <p>13 impersonation under the prior system?</p> <p>14 A. Am I aware specifically, personally?</p> <p>15 Q. Yes.</p> <p>16 A. No.</p> <p>17 MR. DERFNER: Excuse me. We're fighting</p> <p>18 with this drilling outside, so could everybody speak</p> <p>19 up a little bit?</p> <p>20 MS. BALDWIN: Certainly.</p> <p>21 MS. DONNELLY: We live it with every</p> <p>22 day, so it's become white noise to me. Sorry.</p> <p>23 MR. DERFNER: I thought they were doing</p> <p>24 it just for us.</p> <p>25 MS. DONNELLY: Oh, no. Trust me.</p>
<p style="text-align: right;">46</p> <p>1 had a card in my possession, that I was the person who</p> <p>2 it was sent to or that should legally have it.</p> <p>3 Q. And what would constitute proof to you?</p> <p>4 A. What would constitute proof to me is that the</p> <p>5 name on the registration card would match a legal</p> <p>6 document with my photo on it.</p> <p>7 Q. Are you aware of instances in which voter</p> <p>8 registration cards were stolen?</p> <p>9 A. I'm not aware of anything specific.</p> <p>10 Q. Are you aware of instances in which showing a</p> <p>11 voter registration card and providing a signature had</p> <p>12 failed to prevent fraud at the polls?</p> <p>13 A. Please repeat.</p> <p>14 Q. Are you aware of any instances in which</p> <p>15 showing a voter registration card and providing a</p> <p>16 signature had failed to prevent fraud at the polls in</p> <p>17 Texas?</p> <p>18 MS. DONNELLY: Objection. Form.</p> <p>19 A. That's a really -- that's a hard question for</p> <p>20 me to answer the way you've phrased that.</p> <p>21 Q. (BY MS. BALDWIN) Are you aware of any time</p> <p>22 while the prior system was in place in which that</p> <p>23 system of showing a voter registration card and</p> <p>24 providing a signature failed to prevent</p> <p>25 in-person voter impersonation fraud?</p>	<p style="text-align: right;">48</p> <p>1 Q. (BY MS. BALDWIN) I'd like to talk about the</p> <p>2 voter ID legislation that was introduced in the Senate</p> <p>3 in 2009. Do you recall that there was photo voter ID</p> <p>4 legislation introduced in the Senate in 2009?</p> <p>5 A. I do recall that there was.</p> <p>6 (Patrick Exhibit 2 marked/introduced.)</p> <p>7 Q. (BY MS. BALDWIN) I'm going to hand you a</p> <p>8 document to be marked as Exhibit 2, and this is a</p> <p>9 nine-page document that states at the top that it is</p> <p>10 SB No. 362.</p> <p>11 MS. DONNELLY: Counsel, we've been going</p> <p>12 about an hour, so can we take a break now since you're</p> <p>13 about to shift?</p> <p>14 MS. BALDWIN: Certainly.</p> <p>15 MS. DONNELLY: Thank you.</p> <p>16 (Break.)</p> <p>17 Q. (BY MS. BALDWIN) Senator Patrick, I've handed</p> <p>18 you a document that's marked as Exhibit 2 and it's</p> <p>19 titled SB No. 362. Do you recognize this document?</p> <p>20 A. I don't recognize it, but I see that it's</p> <p>21 Senate Bill 362.</p> <p>22 Q. You voted in favor of Senate Bill 362; is</p> <p>23 that correct?</p> <p>24 A. If that's what the record reflects, yes.</p> <p>25 Q. Why did you support this bill?</p>

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13 (Pages 49 to 52)

<p style="text-align: right;">49</p> <p>1 A. You're asking me to go back and remember what 2 I was thinking about a bill five years ago, which is 3 now 12,000 votes ago roughly and maybe 3,000 bills 4 ago. I can't tell you what I was thinking 5 specifically at the time.</p> <p>6 But I support photo voter ID, and if this 7 bill reflected that -- I haven't read this -- I 8 haven't read this bill in probably five years, so I 9 didn't -- haven't read it for preparation. So it was 10 obviously a bill that I felt supported what I believe 11 the vast majority of all Texans wanted us to pass.</p> <p>12 Q. And is that why you supported it, because you 13 believe it reflected what you thought the majority of 14 Texans wanted, or were there other reasons why you 15 supported this bill?</p> <p>16 A. I believe it's important to protect the 17 integrity of the ballot box and I believe that it was 18 the will of the people. As a legislator -- not 19 always, but much of the time -- you vote for 20 legislation that is supported by a majority of the 21 people. And in this case it was a -- what I believe 22 was a large majority of Texans from all political 23 perspectives.</p> <p>24 Q. And how did you ascertain in your judgment 25 that this bill in particular was supported by a</p>	<p style="text-align: right;">51</p> <p>1 support it. But their constituents -- based on 2 polling and news stories, and interviews that I 3 received, and general knowledge -- supported it.</p> <p>4 Q. (BY MS. BALDWIN) So it's your judgment that 5 even though -- let me just be clear then. So you 6 understood that no Democratic members of the Senate 7 supported SB 362; is that correct?</p> <p>8 A. Supported it or voted for it?</p> <p>9 Q. Voted for it.</p> <p>10 A. To my recollection, the record can correct 11 it, I do not believe any Democrats voted for it.</p> <p>12 Q. But you think, notwithstanding the fact that 13 no Democrats voted for it, you think their 14 constituents supported this bill in particular?</p> <p>15 A. I can't speak to this bill in particular. I 16 believe that the majority of their constituents 17 support the concept.</p> <p>18 Q. Would you agree that there are a lot of 19 different ways to have a photo ID bill?</p> <p>20 A. You're asking me would I agree with your view 21 of that. I can't answer what you're asking me to 22 agree to. I -- could there be different forms of a 23 bill in any bill? Of course, yes. But that's a -- 24 that's actually a hard question to answer. You'd have 25 to really narrow that down into "What do you mean,</p>
<p style="text-align: right;">50</p> <p>1 majority of Texans?</p> <p>2 A. We have talked a little about this in the 3 deposition already. Newspaper articles, polling that 4 I read about, talking to folks, whether it was on the 5 radio or in person, probably calls to our office.</p> <p>6 There was a general sense that not 100 7 percent of the people, but 80 or 90 percent of the 8 people, believe that showing a photo when you came to 9 vote was -- was appropriate to protect the integrity 10 of the ballot box.</p> <p>11 Q. Were you aware that there are some Texas 12 voters who didn't support this legislation?</p> <p>13 A. The one thing you learn as a legislator is 14 you're never going to get 100 percent of the vote and 15 you're never going to get 100 percent of the people to 16 agree on any legislation.</p> <p>17 Q. Within the legislature itself, was it even 18 close to 100 percent of the Senate supporting this 19 bill?</p> <p>20 MS. DONNELLY: Objection. Form.</p> <p>21 You can answer.</p> <p>22 A. I believe it was 100 percent. I could be 23 wrong. But I believe it was 100 percent. There may 24 have been one or two Republicans who didn't vote, but 25 I believe it was unanimous. The Democrats did not</p>	<p style="text-align: right;">52</p> <p>1 specifically, are there different ways to do it?"</p> <p>2 Q. So there are different forms of acceptable ID 3 that you could have in a photo ID bill, right?</p> <p>4 A. Yes.</p> <p>5 Q. And there are different forms of having both 6 photo ID or nonphoto ID that you could have in such a 7 bill, right?</p> <p>8 A. Say that again.</p> <p>9 Q. You could have a bill that allowed for both 10 photo ID and nonphoto ID; is that correct?</p> <p>11 A. Well, you're posing a hypothetical. 12 Hypothetically, yes, you could have a bill saying 13 anything.</p> <p>14 Q. Okay. And a photo ID bill, it could vary in 15 terms of whether the forms of ID could be issued only 16 by the state of Texas or by other states; is that 17 correct?</p> <p>18 A. Once again, you're offering a hypothetical. 19 Any bill could have any language.</p> <p>20 Q. Right. And a bill could have different 21 expiration periods for the IDs that have to be shown; 22 is that correct?</p> <p>23 A. Again, in a hypothetical context a bill could 24 say anything.</p> <p>25 Q. And so the idea that people may have</p>

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<p style="text-align: right;">53</p> <p>1 supported the general concept, there are a lot of</p> <p>2 specifics that have to be worked out as to how any</p> <p>3 concept would be implemented with respect to photo</p> <p>4 voter ID; is that correct?</p> <p>5 THE WITNESS: Would you mind saying that</p> <p>6 again? I want to be sure I answer correctly.</p> <p>7 Sorry.</p> <p>8 THE REPORTER: No problem.</p> <p>9 "And so the idea that people may have</p> <p>10 supported the general concept, there are a lot of</p> <p>11 specifics that have to be worked out as to how any</p> <p>12 concept would be implemented with respect to photo</p> <p>13 voter ID; is that correct?"</p> <p>14 A. I'm not trying to be difficult, that's a</p> <p>15 confusing question to me.</p> <p>16 Q. (BY MS. BALDWIN) Given how many choices you</p> <p>17 have to make, and we've just walked through a number</p> <p>18 of hypotheticals, how meaningful is it to you to just</p> <p>19 say people supported photo ID without any</p> <p>20 qualification?</p> <p>21 MS. DONNELLY: Objection. Form.</p> <p>22 Do you understand the question?</p> <p>23 A. I don't. I really don't understand the</p> <p>24 question.</p> <p>25 MS. BALDWIN: If I could just ask</p>	<p style="text-align: right;">55</p> <p>1 thing?</p> <p>2 MS. BALDWIN: Section 6, through 10.</p> <p>3 A. Where does Section 6 begin, what page?</p> <p>4 Q. (BY MS. BALDWIN) Section 6 begins on page 3.</p> <p>5 Actually, I think -- so that we get a full answer, I'm</p> <p>6 willing to spend the time actually to just read from</p> <p>7 Section 6 until the end, if you would.</p> <p>8 A. Okay.</p> <p>9 MR. CLAY: Anna, do you have another</p> <p>10 copy?</p> <p>11 MS. BALDWIN: Here.</p> <p>12 A. Okay. I mean, if you have a specific</p> <p>13 question, we may have to go back over a specific</p> <p>14 point, but I've kind of went through it as quickly as</p> <p>15 I could.</p> <p>16 Q. (BY MS. BALDWIN) So my question was: What</p> <p>17 was the legislative purpose of this bill?</p> <p>18 A. To protect the integrity of the ballot box by</p> <p>19 doing our best to assure that the only people voting</p> <p>20 were people who were eligible to vote and registered</p> <p>21 to vote.</p> <p>22 Q. Were there any other purposes of this</p> <p>23 legislation, other than the purpose you've just</p> <p>24 stated?</p> <p>25 A. I don't believe so, but I -- I may think of</p>
<p style="text-align: right;">54</p> <p>1 if -- Senator Patrick, if you don't understand the</p> <p>2 question, please feel free -- but let's let Senator</p> <p>3 Patrick let me know that he doesn't understand the</p> <p>4 question rather than have a speaking objection.</p> <p>5 A. Well, that's why I asked you to repeat it for</p> <p>6 me. I'm not trying to be difficult. I'm not sure</p> <p>7 that I understand what you're trying to ask me.</p> <p>8 Q. (BY MS. BALDWIN) Okay.</p> <p>9 A. Sorry.</p> <p>10 Q. I'll move on from that.</p> <p>11 THE WITNESS: I didn't hear that</p> <p>12 drilling until you brought that up before.</p> <p>13 MS. DONNELLY: For the record, there's a</p> <p>14 jackhammer outside. We're 15 floors up, but it sounds</p> <p>15 like it's in the next room.</p> <p>16 MR. DERFNER: It's testifying I guess.</p> <p>17 THE WITNESS: Yes. Yes.</p> <p>18 Q. (BY MS. BALDWIN) What was the purpose -- the</p> <p>19 legislative purpose of SB 362?</p> <p>20 A. I have not read the bill since 2009.</p> <p>21 Q. Why don't you take a moment to read it, then,</p> <p>22 if that will help you answer.</p> <p>23 A. All right.</p> <p>24 MS. DONNELLY: I'm not trying to</p> <p>25 interfere here. Do you want him to read the whole</p>	<p style="text-align: right;">56</p> <p>1 something later. But right now, that's the purpose,</p> <p>2 of making sure that we have integrity at the ballot</p> <p>3 box.</p> <p>4 Q. Was the purpose of this bill to increase</p> <p>5 voter confidence?</p> <p>6 A. You know, I would just simply go back to the</p> <p>7 purpose of the bill was to protect the integrity of</p> <p>8 the ballot box. And if that gave people more</p> <p>9 confidence or it didn't, I can't make that call.</p> <p>10 Q. Was it your view that voters had a lack of</p> <p>11 confidence in the election process in Texas prior to</p> <p>12 this point?</p> <p>13 A. Yes. You -- you asked me earlier did</p> <p>14 I -- was I -- I took the question as, was I personally</p> <p>15 aware of any particular voter fraud; and my answer</p> <p>16 was, was I personally aware, was no.</p> <p>17 But there had been some news accounts, there</p> <p>18 had been testimony, there was a belief in -- in -- by</p> <p>19 the general public that potentially there was fraud</p> <p>20 taking place in the voting booth.</p> <p>21 Q. And specifically, in-person voter</p> <p>22 impersonation fraud?</p> <p>23 A. Yes, that -- that people believed in</p> <p>24 general I -- I would say on two tracts. They believed</p> <p>25 that the system was ripe for fraud because anyone</p>

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<p style="text-align: right;">57</p> <p>1 could show up with a voter registration card and you 2 didn't know if they were the person.</p> <p>3 And secondly -- and this is why I believe the 4 bill had universal support and -- again, from -- from 5 people from all walks of life and -- and minority and 6 majority populations -- they did not view it being 7 unreasonable to require someone to have a photo ID to 8 vote.</p> <p>9 Because what people would say to me all of 10 the time -- all of the time; whether it was on the 11 radio, in a meeting, seeing them down -- you know, 12 walking down the street talking about it, if -- if 13 this issue came up, is, we live in a society where 14 we're required to present a photo to do almost 15 everything we do; pick up your grandchild at school, 16 your child at school, get on an airplane, cash a 17 check, use your credit card.</p> <p>18 The general public -- and this is why 90 19 percent of the people support it. 90 percent of the 20 people -- or at least, you know, the vast majority, 21 whatever the specific poll says -- people don't see it 22 as unreasonable because they are asked -- the majority 23 of people understand that this is -- is something that 24 is -- has become a part of the -- of society.</p> <p>25 Q. You keep referring to "universal support,"</p>	<p style="text-align: right;">59</p> <p>1 after poll indicated that the majority of people, 2 including constituents who -- who voted for Democrats, 3 supported this issue. I don't think that's -- that's 4 not a secret or a mystery.</p> <p>5 Q. But you're not aware of any specific polls 6 that were taken of the specific constituents of your 7 colleagues who are Democrats showing that they 8 supported SB 362, are you?</p> <p>9 A. I -- I don't know of a specific poll on 362.</p> <p>10 Q. So, in fact, you don't know, based on any 11 polling data, that SB 362 enjoyed anything like 12 universal support among Texas voters?</p> <p>13 MS. DONNELLY: Objection.</p> <p>14 Argumentative.</p> <p>15 MR. CLAY: Objection. Form.</p> <p>16 A. I think the first question you asked me a few 17 minutes ago was a general polling question, which I 18 answered. If you're asking me now, specifically, have 19 I seen a poll that specifically said people supported 20 this bill word-for-word, no, I have not seen a poll.</p> <p>21 Q. (BY MS. BALDWIN) So you don't --</p> <p>22 A. Not that I recall.</p> <p>23 Q. But other than polling data, do you have any 24 other reason to believe that there was widespread 25 support, including among minority Texans, for this</p>
<p style="text-align: right;">58</p> <p>1 notwithstanding the fact that every Democratic member 2 of the Senate voted against this bill. Do you see any 3 contradiction in that?</p> <p>4 A. I think I've been clear. And if I have not 5 been, for the record, let me be clear: Universal 6 support by their constituents -- I think I said that 7 earlier. We could go back and read the record. I 8 said they may have voted against it; but their 9 constituents, when polled, were in favor of it.</p> <p>10 Q. So you're relying on a poll. What poll are 11 you relying on to assert that their constituents 12 supported this and the poll shows that rather than 13 their own votes?</p> <p>14 A. Well, there are many polls. We are a nation 15 of polls. We see polls every night in the news. Is 16 the President popular or unpopular, is Congress 17 popular or unpopular, is this issue, you know, popular 18 with people, unpopular. I mean, we are also a nation 19 of polls.</p> <p>20 And very often political parties, both 21 parties, will use polls to say, "This is where people 22 stand. The President will use it. Congress will use 23 it. Democrats will use it. Republicans will use it."</p> <p>24 So I don't think it's a foreign concept 25 to -- thank you -- to suggest that poll after poll</p>	<p style="text-align: right;">60</p> <p>1 specific legislation -- in other words, SB 362 -- 2 notwithstanding the unified opposition of every member 3 of the Texas Senate who represents a majority minority 4 district?</p> <p>5 MS. DONNELLY: Objection.</p> <p>6 Argumentative.</p> <p>7 Go ahead.</p> <p>8 A. And as I think I've answered -- as candidly 9 and as directly as I can -- it was more than polls. 10 This issue had been -- had been in the public for a 11 number of years. You know, just general conversations 12 about it with people; whether they were in my district 13 or out of my district, whether they stopped me on the 14 street or whether it was at a meeting or whether it 15 was a phone call.</p> <p>16 It's -- it was almost to the point, it was so 17 universal, that -- support for the bill, for the 18 concept of photo voter ID -- it was so universal that 19 you really had to shake your head and wonder why 20 anyone would be voting against it. I can't explain 21 why the Democrats voted against it.</p> <p>22 Q. (BY MS. BALDWIN) So sitting here today, you 23 don't have any idea of the reasons why your colleagues 24 in the Senate who voted against this bill did so?</p> <p>25 A. I really don't know.</p>

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16 (Pages 61 to 64)

<p style="text-align: right;">61</p> <p>1 Q. What were the reasons that they gave?</p> <p>2 MS. DONNELLY: Objection.</p> <p>3 To the extent that it's in the public</p> <p>4 record, then certainly you can answer, but don't --</p> <p>5 Q. (BY MS. BALDWIN) What were the public reasons</p> <p>6 they gave?</p> <p>7 MS. DONNELLY: You can answer.</p> <p>8 A. Yeah, I'd have to -- I'd have to go back and</p> <p>9 look at the testimony. It was, I recall, 24 hours of</p> <p>10 debate, or something like that; 20 hours, 18 hours, 30</p> <p>11 hours. I -- you know, I can't recall. I didn't think</p> <p>12 their arguments were very valid when I heard them, but</p> <p>13 I -- I didn't really think they presented much of a</p> <p>14 case, to be honest with you.</p> <p>15 Q. (BY MS. BALDWIN) But it didn't concern you to</p> <p>16 understand why they were opposed?</p> <p>17 MS. DONNELLY: Objection. Form.</p> <p>18 You can answer.</p> <p>19 A. When I'm crafting legislation or voting for</p> <p>20 legislation, it's always great to have bipartisan</p> <p>21 support. It's -- it's a worthy goal.</p> <p>22 It's a worthy goal to have unanimous support</p> <p>23 within your own party. But, that is often not the</p> <p>24 case. And I never really worry.</p> <p>25 I listen to people. I try to evaluate their</p>	<p style="text-align: right;">63</p> <p>1 racial minority vote against this bill?</p> <p>2 A. I'd have to check the record. I believe it</p> <p>3 was unanimous. If the record does not reflect that,</p> <p>4 then my answer would be different, but I believe</p> <p>5 you're correct.</p> <p>6 Q. And did that give you pause, that support and</p> <p>7 opposition to this bill was split along racial lines?</p> <p>8 MS. DONNELLY: Objection. Form.</p> <p>9 A. I have voted for bills where the final tally</p> <p>10 was 30 to 1 and I was the 1. Or 29 to 2. I</p> <p>11 don't -- I vote for what I believe is right and best</p> <p>12 represents the people of Texas.</p> <p>13 So I don't -- whether a bill passed by one</p> <p>14 vote or was unanimous, I vote on legislation I</p> <p>15 believe -- that I believe is the right thing for all</p> <p>16 Texans, and I don't worry about if other Republicans</p> <p>17 or Democrats -- we don't have any Independents in</p> <p>18 this, in the Senate -- vote against me.</p> <p>19 Q. (BY MS. BALDWIN) So to summarize, then, is it</p> <p>20 fair to say you weren't bothered by the fact that all</p> <p>21 African-American and Latino senators voted against</p> <p>22 this bill?</p> <p>23 MS. DONNELLY: Objection. Form.</p> <p>24 A. I don't want to answer the question as it's</p> <p>25 your representation that I'm not "bothered by the</p>
<p style="text-align: right;">62</p> <p>1 arguments to be sure that -- that I've made the right</p> <p>2 decision in how I'm going to vote.</p> <p>3 But at the end of the day, if someone chooses</p> <p>4 to vote against something that I'm for, or for</p> <p>5 something that I'm against, I don't really try</p> <p>6 to -- after I've listened to their argument and maybe</p> <p>7 talked to them to really try to get an understanding,</p> <p>8 I don't really, you know, after the fact, think about</p> <p>9 why they voted for something or against something.</p> <p>10 Q. (BY MS. BALDWIN) And by the fact that every</p> <p>11 Democratic member of the Senate voted against this</p> <p>12 bill, is it also accurate to say that every member of</p> <p>13 the Senate who represents a majority minority district</p> <p>14 voted against this bill?</p> <p>15 MR. CLAY: Objection. Form.</p> <p>16 A. Did every Democrat who represents a majority</p> <p>17 minority district vote against the bill?</p> <p>18 Q. (BY MS. BALDWIN) Yes.</p> <p>19 A. I -- I think the record -- I think the record</p> <p>20 reflects every Democrat voted against it, and I</p> <p>21 believe, but not certain, that Democrats represent</p> <p>22 districts that are majority minority districts. So</p> <p>23 the answer would be yes, based on the knowledge that I</p> <p>24 have.</p> <p>25 Q. And did every member of the Senate who is a</p>	<p style="text-align: right;">64</p> <p>1 fact." I didn't -- I listened to the testimony. I</p> <p>2 voted for the bill.</p> <p>3 Q. (BY MS. BALDWIN) Did it make you think twice,</p> <p>4 the fact that support and opposition was split along</p> <p>5 racial lines in the Senate?</p> <p>6 MS. DONNELLY: Objection. It's</p> <p>7 argumentative.</p> <p>8 A. Yeah, I think I've -- I've answered this</p> <p>9 as -- as candidly as I can. I don't look at fellow</p> <p>10 senators as Republicans or Democrats, or black, white,</p> <p>11 and brown. I look at my senators as equals.</p> <p>12 And sometimes there are -- there's</p> <p>13 legislation that Democrats support with me that</p> <p>14 Republicans might not, not all of them; and sometimes</p> <p>15 there are bills that only Republicans support and</p> <p>16 Democrats. I don't think like that.</p> <p>17 Q. (BY MS. BALDWIN) And I'm not meaning to be</p> <p>18 argumentative, but --</p> <p>19 A. Sure.</p> <p>20 Q. -- just so that I understand, you didn't take</p> <p>21 any different significance away from this bill,</p> <p>22 SB 362, because of the racial divide among the</p> <p>23 senators; is that fair?</p> <p>24 MS. DONNELLY: Objection to form.</p> <p>25 Argumentative.</p>

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17 (Pages 65 to 68)

<p style="text-align: right;">65</p> <p>1 Go ahead.</p> <p>2 A. I would need you to say that one more time.</p> <p>3 Q. (BY MS. BALDWIN) You didn't assign any</p> <p>4 special significance to the fact that support and</p> <p>5 opposition to this bill fell along racial lines in the</p> <p>6 Senate?</p> <p>7 MS. DONNELLY: Form.</p> <p>8 Go ahead.</p> <p>9 A. I never take that in consideration.</p> <p>10 Q. (BY MS. BALDWIN) Thank you.</p> <p>11 Your prior testimony was that the purpose of</p> <p>12 this bill was to protect the integrity of the ballot</p> <p>13 box. Do you believe that SB 362 would have</p> <p>14 accomplished that purpose?</p> <p>15 A. To be very candid with you, it's very hard</p> <p>16 for me to go back and even remember. I remember</p> <p>17 Senate Bill 14 a little bit better. But going back to</p> <p>18 2009, and trying to ask me what I believed or didn't</p> <p>19 believe at the time...</p> <p>20 Obviously, I voted for the bill, so the</p> <p>21 record would reflect that I supported the bill. I</p> <p>22 can't tell you what my thinking was at the time;</p> <p>23 hundreds and hundreds, and hundreds of hundreds,</p> <p>24 hundreds -- maybe thousands of witnesses ago.</p> <p>25 Q. Is it correct that the only type of fraud</p>	<p style="text-align: right;">67</p> <p>1 use of driver's licenses that had been expired for up</p> <p>2 to two years?</p> <p>3 A. I do see that.</p> <p>4 Q. And did you think that was a reasonable</p> <p>5 provision?</p> <p>6 A. I can't remember what I thought at the time.</p> <p>7 Q. Sitting here today, do you have an opinion of</p> <p>8 this provision?</p> <p>9 A. Sitting here today, that is not something</p> <p>10 that I -- I would have supported, in terms of that</p> <p>11 language. But understand, that when you vote for a</p> <p>12 bill, you're not always necessarily supportive of</p> <p>13 every line in the bill.</p> <p>14 And when you vote against a bill, it doesn't</p> <p>15 mean that there isn't -- isn't something in the bill</p> <p>16 that you voted against that you didn't support.</p> <p>17 So that's what was in the bill at that</p> <p>18 particular time, and that's how I voted, so...</p> <p>19 Q. Sitting here today, why is it that you</p> <p>20 wouldn't support this language, if I've understood</p> <p>21 your testimony correctly?</p> <p>22 A. I think it should be for a valid and not an</p> <p>23 expired license.</p> <p>24 Q. And why is that in terms of the purpose of</p> <p>25 the bill being to show somebody's identity?</p>
<p style="text-align: right;">66</p> <p>1 that would have been combatted by SB 362 is in-person</p> <p>2 voter impersonation fraud?</p> <p>3 A. You're asking me an absolute, and I'm -- I'm</p> <p>4 trying to move this along and I've slowed down the</p> <p>5 process. I have to think through what you said. But</p> <p>6 my first-blush response was, our concern was the</p> <p>7 ballot, the integrity of the ballot for in-person</p> <p>8 voting.</p> <p>9 Q. But sitting here today, can you think of any</p> <p>10 other kind of fraud that this bill would have</p> <p>11 addressed other than in-person voter impersonation</p> <p>12 fraud?</p> <p>13 A. Sitting here today, and ten seconds of</p> <p>14 thinking of your question, I can't. But I -- if I</p> <p>15 have a further reflection later, I'll let you know.</p> <p>16 Q. Okay. I'd like to ask about some of the</p> <p>17 specific provisions in SB 362. On page 5 of the bill,</p> <p>18 in Section 10, paragraph (1), do you see that this</p> <p>19 bill would have allowed the use of Texas driver's</p> <p>20 licenses or personal identification cards that had --</p> <p>21 A. What line are you on? I'm sorry.</p> <p>22 Q. Sure. I'm in subparagraph (1), on page -- on</p> <p>23 Line Number 22.</p> <p>24 A. Line Number 22. Okay. I see it.</p> <p>25 Q. Do you see that SB 362 would have allowed the</p>	<p style="text-align: right;">68</p> <p>1 A. You know, it's just -- you know, it's like my</p> <p>2 passport. I noticed recently it's going to expire</p> <p>3 next year. It will still have my picture on it and</p> <p>4 the information will be accurate, but I won't be able</p> <p>5 to leave the country because it's expired. And</p> <p>6 there's a reason the federal government believes it's</p> <p>7 important to have a valid passport, and I just believe</p> <p>8 it's important to have a valid driver's license.</p> <p>9 Q. But the -- for a passport, you would agree</p> <p>10 that the expiration periods are set for the purposes</p> <p>11 of whatever the federal government has deemed for</p> <p>12 using a passport, it's not the same purpose for -- let</p> <p>13 me say that over again.</p> <p>14 A. Okay.</p> <p>15 Q. Did the federal government set passport</p> <p>16 expiration periods with reference to whether or not it</p> <p>17 would be sufficient to verify somebody's identity in</p> <p>18 voting in Texas?</p> <p>19 MR. CLAY: Objection. Form.</p> <p>20 A. I have no idea why the federal government</p> <p>21 sets their rules. My -- my point was that there is a</p> <p>22 reason the federal government -- government sets an</p> <p>23 expiration date and you can only use it for that</p> <p>24 period. And in my view, the state asking for a</p> <p>25 driver's license to only be valid, based on nothing</p>

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18 (Pages 69 to 72)

<p style="text-align: right;">69</p> <p>1 expired, is -- is reasonable. That's -- we're</p> <p>2 not -- that's just my answer.</p> <p>3 Q. A driver's license that's been expired for a</p> <p>4 month, is that any less likely to be able to show that</p> <p>5 the person who's holding it is, in fact, the voter</p> <p>6 that they say they are? In other words, what does</p> <p>7 expiration have to do with the ability to prove</p> <p>8 somebody's identity?</p> <p>9 MS. DONNELLY: Objection. Form.</p> <p>10 A. You know, I've kind of given you my answer on</p> <p>11 it. I just -- you asked me a question and I gave you</p> <p>12 my answer that I would have preferred -- preferred at</p> <p>13 the time, for it to be based on a valid driver's</p> <p>14 license.</p> <p>15 Q. (BY MS. BALDWIN) I understand in terms of the</p> <p>16 bill. But just as a general matter of policy</p> <p>17 preference, I'm trying to understand your position.</p> <p>18 If the purpose is to verify a voter's</p> <p>19 identity, why does a license being expired by a month</p> <p>20 become inadequate to verify a voter's identity?</p> <p>21 MS. DONNELLY: Objection. Form.</p> <p>22 A. You could make that same argument, that, is</p> <p>23 two years' expiration okay or five years' expiration</p> <p>24 okay or why wouldn't ten years of expiration be okay?</p> <p>25 I just gave you my answer. I believe that</p>	<p style="text-align: right;">71</p> <p>1 A. Do I think that's likely?</p> <p>2 Q. Yes.</p> <p>3 A. Is it possible, yes. Likely, I don't -- I</p> <p>4 couldn't answer.</p> <p>5 Q. Do you have any elderly relatives in the</p> <p>6 state of Texas?</p> <p>7 A. Yes.</p> <p>8 Q. Do they all still drive?</p> <p>9 A. My 88-year-old mother still has her valid</p> <p>10 driver's license. And elderly people who are over 65,</p> <p>11 as anyone over 65, can vote by mail without any</p> <p>12 identification.</p> <p>13 Q. But if they show up to the polls, they still</p> <p>14 have to show ID; is that correct?</p> <p>15 A. Yes, they do.</p> <p>16 Q. And as a general matter, you would agree that</p> <p>17 as people age sometimes they let their driver's</p> <p>18 license expire because they no longer drive, right?</p> <p>19 MS. DONNELLY: Objection.</p> <p>20 A. I mean, I'm sure, again, it -- I'm sure it</p> <p>21 occurs.</p> <p>22 Q. (BY MS. BALDWIN) On page 6 of the bill, I'm</p> <p>23 still in -- we're still in Section 10 --</p> <p>24 A. Uh-huh.</p> <p>25 Q. -- do you see that -- on Line 16, that the</p>
<p style="text-align: right;">70</p> <p>1 being a current -- valid current driver's license</p> <p>2 is -- is appropriate.</p> <p>3 Q. (BY MS. BALDWIN) But what's the basis for</p> <p>4 that belief in terms of how that's related to the</p> <p>5 purpose of the bill in terms of being adequate to</p> <p>6 verify somebody's identity?</p> <p>7 MS. DONNELLY: Objection. Form.</p> <p>8 Go ahead.</p> <p>9 A. I don't know how I can say it any</p> <p>10 differently. I believe that it should be a valid</p> <p>11 driver's license. I believe that's what the law is</p> <p>12 today, I believe, so...</p> <p>13 Q. (BY MS. BALDWIN) Do you think that more</p> <p>14 people would have an ID that they would be able to</p> <p>15 show at the polls if expired licenses were accepted?</p> <p>16 A. Do I -- say that again.</p> <p>17 Q. Do you believe that there are some Texas</p> <p>18 voters who only have in their possession an expired</p> <p>19 driver's license or passport?</p> <p>20 A. I wouldn't know that. I mean, I wouldn't</p> <p>21 know that.</p> <p>22 Q. Do you think that there are elderly people</p> <p>23 who have let their driver's license expire and only</p> <p>24 have that expired license in their possession; do you</p> <p>25 think that's likely?</p>	<p style="text-align: right;">72</p> <p>1 bill, SB 362, would have allowed for the use of a</p> <p>2 valid identification card that contains the person's</p> <p>3 photograph and is issued by an agency or institution</p> <p>4 of the federal government or an agency, institution or</p> <p>5 political subdivision of Texas?</p> <p>6 A. Yes, I do.</p> <p>7 Q. Okay. And did you support that language?</p> <p>8 A. I voted for the bill.</p> <p>9 Q. Do you think that a photo ID that's issued by</p> <p>10 the federal government and is valid is an adequate way</p> <p>11 to verify a voter's identity?</p> <p>12 A. If we were on the Senate floor right now I</p> <p>13 would ask you exactly what you mean by all of this and</p> <p>14 what valid IDs you're talking about, so...</p> <p>15 Q. A federal employee ID, do you think that that</p> <p>16 is an adequate form of ID to verify a voter's</p> <p>17 identity?</p> <p>18 MR. CLAY: Objection. Form.</p> <p>19 A. I'd have to think about it.</p> <p>20 Q. (BY MS. BALDWIN) Why is that?</p> <p>21 A. Because I'd have to think about it.</p> <p>22 Q. Is there any reason, sitting here today, that</p> <p>23 you can think of, why a federal employee ID wouldn't</p> <p>24 be good enough to verify a voter's identity?</p> <p>25 A. I would have to think about it.</p>

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19 (Pages 73 to 76)

<p style="text-align: right;">73</p> <p>1 Q. What about a state employee ID? Is that, as</p> <p>2 you sit here today, in your judgment, adequate to</p> <p>3 verify a voter's identity?</p> <p>4 A. I'd have to think through it.</p> <p>5 Q. Can you think of, sitting here today, any</p> <p>6 reason why it wouldn't be good enough?</p> <p>7 A. I would have to think through it.</p> <p>8 Q. What factors would you consider in thinking</p> <p>9 through that?</p> <p>10 A. You're kind of pivoting the discussion now</p> <p>11 and getting into writing legislation and crafting a</p> <p>12 bill and -- and I would want to have all the</p> <p>13 information of -- of why certain things are considered</p> <p>14 and why certain things aren't. I might agree, I might</p> <p>15 not agree, at the end of the day.</p> <p>16 Q. But you voted in favor of this bill, correct?</p> <p>17 A. Yes.</p> <p>18 MS. DONNELLY: Objection. Asked and</p> <p>19 answered.</p> <p>20 A. Yes.</p> <p>21 Q. (BY MS. BALDWIN) And so at the time you voted</p> <p>22 in favor of it, did you have adequate information to</p> <p>23 make that judgment?</p> <p>24 A. Again, I don't recall the specifics of the</p> <p>25 deliberation or the specifics of a bill five years</p>	<p style="text-align: right;">75</p> <p>1 verify their residence.</p> <p>2 Q. (BY MS. BALDWIN) Is the -- was verifying</p> <p>3 residence one of the purposes of SB 362?</p> <p>4 A. The purpose of 362 was integrity of the</p> <p>5 ballot box and making sure that people who voted were</p> <p>6 eligible to vote and registered to vote.</p> <p>7 So in the case of a student, you could have a</p> <p>8 photo ID that would show this is who I am, but it</p> <p>9 would not necessarily -- as an out-of-state student,</p> <p>10 are they registered to vote? So...</p> <p>11 Q. Do you know whether passports reflect a</p> <p>12 voter's -- a passport holder's current residential</p> <p>13 address?</p> <p>14 A. I haven't seen the latest passports because</p> <p>15 mine are ten years -- almost ten years old, but</p> <p>16 I -- but it does have on your passport where that</p> <p>17 passport was issued, but I don't know that it has the</p> <p>18 current address.</p> <p>19 Q. And are you aware that passports have a</p> <p>20 ten-year validity period and can be issued in any</p> <p>21 state?</p> <p>22 A. Yes.</p> <p>23 Q. So you would agree that for your passport,</p> <p>24 for example, it doesn't say where you live on the face</p> <p>25 of your passport?</p>
<p style="text-align: right;">74</p> <p>1 ago. I voted for the bill. It's on the record. I</p> <p>2 don't know what else I can say.</p> <p>3 Q. Would you agree that subparagraph (b) --</p> <p>4 which allowed for IDs issued by an agency,</p> <p>5 institution, or political subdivision of this state --</p> <p>6 would have included student IDs from public</p> <p>7 universities?</p> <p>8 A. I don't know if that included that or not.</p> <p>9 Q. Would you have supported that if it did?</p> <p>10 A. I don't know if we talked about that, you</p> <p>11 know, regarding that bill or this bill. I mean, I</p> <p>12 don't know if that was part of this or not.</p> <p>13 Q. Do you have an opinion, sitting here today,</p> <p>14 as to whether student IDs issued by public</p> <p>15 universities in Texas are adequate to verify a voter's</p> <p>16 identity?</p> <p>17 A. It might identify. It may -- how did you</p> <p>18 just say that? I'm sorry. How did you say that?</p> <p>19 Q. Do you have an opinion --</p> <p>20 A. To verify their identity?</p> <p>21 Q. Yes.</p> <p>22 A. It might verify their identity, but it would</p> <p>23 not necessarily verify their residence.</p> <p>24 MR. CLAY: What were your last words?</p> <p>25 THE WITNESS: Would not necessarily</p>	<p style="text-align: right;">76</p> <p>1 A. Mine doesn't. I can't speak for others. I</p> <p>2 haven't seen others.</p> <p>3 Q. And your passport would have been accepted</p> <p>4 under this bill; is that correct?</p> <p>5 A. I believe so.</p> <p>6 Q. And military IDs, are you aware of whether</p> <p>7 they show --</p> <p>8 A. I'm -- I'm not.</p> <p>9 Q. So is your --</p> <p>10 A. I didn't want to finish your question there,</p> <p>11 but I know where you were going.</p> <p>12 Q. You're not aware of whether military ID show</p> <p>13 a voter's residence?</p> <p>14 A. Correct.</p> <p>15 Q. So is residence a concern that you only have</p> <p>16 with respect to students?</p> <p>17 A. No. Residence would be a concern that you</p> <p>18 would have with everyone.</p> <p>19 Q. But there are a number of forms of ID that</p> <p>20 were acceptable under this bill that wouldn't show</p> <p>21 residence; would you agree?</p> <p>22 A. I'd have to go back and go through that, but</p> <p>23 I believe -- I believe that would be an accurate</p> <p>24 statement.</p> <p>25 Q. SB 362 also allowed for the use of nonphoto</p>

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20 (Pages 77 to 80)

<p style="text-align: right;">77</p> <p>1 ID: is that correct?</p> <p>2 A. Yes, as I read it, correct.</p> <p>3 Q. What was the purpose of allowing for a voter</p> <p>4 to use two forms of specified nonphoto ID?</p> <p>5 A. I don't know.</p> <p>6 Q. Did you ever know?</p> <p>7 A. Don't know. I mean, I really -- I don't know</p> <p>8 why that was in the bill. I don't recall.</p> <p>9 Q. Did you ever have any conversation to try and</p> <p>10 find out why that was included?</p> <p>11 A. That, I would not recall.</p> <p>12 Q. Did you support the inclusion of nonphoto IDs</p> <p>13 in SB 362?</p> <p>14 A. I voted for the bill. And as I said earlier,</p> <p>15 on the record: You vote for bills, you may not agree</p> <p>16 with everything in a bill, and you vote against bills,</p> <p>17 you may agree with some parts of the bill. So I voted</p> <p>18 for the bill, and that's the -- we've said that</p> <p>19 multiple times.</p> <p>20 Q. So as you sit here today, do you have any</p> <p>21 recollection of whether you supported or opposed</p> <p>22 allowing a voter to verify their identity using a</p> <p>23 Medicare or Medicaid card, for example?</p> <p>24 A. I don't know what a Medicaid or Medicare card</p> <p>25 looks like. I don't know if it has a photo or not.</p>	<p style="text-align: right;">79</p> <p>1 Q. Including, in this instance, Section 5 of the</p> <p>2 Voting Rights Act specifically?</p> <p>3 A. Let's review, if you'd like, Section 5 of the</p> <p>4 Voting Rights Act. Specifically, my belief is that</p> <p>5 just simply means our legislation has to be precleared</p> <p>6 and -- so I knew that whatever legislation we passed</p> <p>7 would be precleared.</p> <p>8 Q. Did you form a judgment for yourself about</p> <p>9 whether the legislation complied with the Voting</p> <p>10 Rights Act?</p> <p>11 MS. DONNELLY: This line of questioning</p> <p>12 and -- on -- really, on 362 overall, this is all --</p> <p>13 and to the extent the questions invade legislative</p> <p>14 privilege, this is all under seal. I just want to</p> <p>15 make that clear for the record; is that correct?</p> <p>16 MS. BALDWIN: Yes. The entire</p> <p>17 transcript is under seal.</p> <p>18 MS. DONNELLY: Okay. So we've</p> <p>19 established that?</p> <p>20 MS. BALDWIN: Yes.</p> <p>21 MS. DONNELLY: Okay. Thank you.</p> <p>22 You can answer. I'm sorry. I didn't</p> <p>23 mean to interrupt.</p> <p>24 Q. (BY MS. BALDWIN) Did you form a judgment for</p> <p>25 yourself as to whether the legislation that we're</p>
<p style="text-align: right;">78</p> <p>1 Q. Nonphoto ID.</p> <p>2 A. Oh, under a nonphoto. I do -- my belief was,</p> <p>3 we needed a photo ID to protect the integrity of the</p> <p>4 ballot box. The other language that was in the bill</p> <p>5 was in the bill. I voted overall for the bill.</p> <p>6 I would not -- I didn't -- would not have</p> <p>7 agreed with that part of it, but it was in the bill.</p> <p>8 That's the bill I had to vote for -- not had to vote</p> <p>9 for. That's the bill that -- that was the only bill I</p> <p>10 had to vote on at that given time.</p> <p>11 Q. Did you analyze or direct anyone to analyze</p> <p>12 which registered voters possessed one of the required</p> <p>13 forms of photo ID identified in SB 362?</p> <p>14 A. I don't recall.</p> <p>15 Q. At the time that SB 362 was considered, were</p> <p>16 you aware that Texas was subject to the Section 5</p> <p>17 preclearance requirements of the Voting Rights Act?</p> <p>18 A. I'm sure I was. Not specifically, but I'm</p> <p>19 sure I was.</p> <p>20 Q. In deciding whether to support SB 362, did</p> <p>21 you consider whether the legislation complied with</p> <p>22 Section 5 of the Voting Rights Act?</p> <p>23 A. We always tried to write legislation</p> <p>24 that -- we always try to write legislation that</p> <p>25 complies with whatever given laws we're dealing with.</p>	<p style="text-align: right;">80</p> <p>1 talking, SB 362, complied with the Voting Rights Act?</p> <p>2 A. I don't think I formed a judgement for</p> <p>3 myself. That's more -- I believe that's something</p> <p>4 more that the author of the bill needs to consider</p> <p>5 when he or she writes the bill.</p> <p>6 Q. Why isn't that something that you would want</p> <p>7 to consider in casting -- in deciding how to cast your</p> <p>8 votes?</p> <p>9 A. There are a lot of pieces of legislation that</p> <p>10 are challenged in the courts everywhere. And so, when</p> <p>11 I'm writing a bill I'm going to do the best I can to</p> <p>12 believe that it will survive challenges; and I assume</p> <p>13 authors of bills are doing the same thing. And so, I</p> <p>14 don't think about it very much unless it's my bill.</p> <p>15 And if it's my bill that I'm writing, then I</p> <p>16 try to do my best to do that, because you want your</p> <p>17 legislation to be upheld by the courts.</p> <p>18 Q. So is it fair to say that you didn't think</p> <p>19 about very much whether SB 362 would have a negative</p> <p>20 impact on the voting rights of racial minorities in</p> <p>21 Texas?</p> <p>22 MS. DONNELLY: Objection. Form.</p> <p>23 Go ahead.</p> <p>24 A. I've never believed that asking someone to</p> <p>25 have a photo voter ID infringed on anyone's rights.</p>

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21 (Pages 81 to 84)

<p style="text-align: right;">81</p> <p>1 Q. (BY MS. BALDWIN) And how did you form that</p> <p>2 judgment?</p> <p>3 A. I believed it was not an unreasonable</p> <p>4 request. We've talked quite at length about the</p> <p>5 support by the general public who did not have that</p> <p>6 view that it was unreasonable, and it was important to</p> <p>7 protect the integrity of the ballot box.</p> <p>8 Q. But you didn't know whether the specific</p> <p>9 forms of ID that were required by SB 362 were not</p> <p>10 possessed equally by members of all racial groups in</p> <p>11 Texas?</p> <p>12 A. Would you say that again?</p> <p>13 Q. You didn't know whether the forms of ID that</p> <p>14 were required by SB 362 were possessed in equal</p> <p>15 proportion by members of all racial groups in Texas?</p> <p>16 A. I wouldn't have -- I wouldn't know that.</p> <p>17 Q. And would it also be fair to say that you</p> <p>18 didn't think that that was an important consideration</p> <p>19 to try and find out?</p> <p>20 MS. DONNELLY: Objection. Form.</p> <p>21 A. If the question is, did I believe that the</p> <p>22 vast majority of people had some type of photo</p> <p>23 identification, the answer to that would be yes,</p> <p>24 because it is required by so many businesses,</p> <p>25 entity -- government entities. Having a photo ID</p>	<p style="text-align: right;">83</p> <p>1 combination that's important to me.</p> <p>2 A. Okay.</p> <p>3 Q. So let's say that there are 10 percent,</p> <p>4 approximately, of registered voters who lack a</p> <p>5 required photo ID. Also, assume that that 10 percent</p> <p>6 is disproportionately poor, disproportionately a</p> <p>7 racial minority, and that it's difficult to get one of</p> <p>8 the required forms of photo ID.</p> <p>9 Would that combination of factors be</p> <p>10 something that you think should weigh into the</p> <p>11 consideration of a bill like this?</p> <p>12 MS. DONNELLY: I'm going to object to</p> <p>13 the form of the question.</p> <p>14 But you can answer if you understand it.</p> <p>15 A. I could only answer with a hypothetical back,</p> <p>16 of, how I would potentially look at that? First,</p> <p>17 would those people -- how many of those people, for</p> <p>18 example, would be over 65 and who could vote by mail</p> <p>19 and who do vote by mail. Now, they -- some people</p> <p>20 over 65 prefer to vote in person. I understand that.</p> <p>21 So that would have to be taken.</p> <p>22 How many of those people live in urban areas</p> <p>23 where it's very convenient to get to a DPS and get a</p> <p>24 free ID, for example. So what's the real percentage?</p> <p>25 Again, the premise that you're making is not</p>
<p style="text-align: right;">82</p> <p>1 today is very commonplace. Does that mean that</p> <p>2 everyone in the population had one, I couldn't answer</p> <p>3 that. But I did not think it was unreasonable,</p> <p>4 regardless of if you were a majority or minority.</p> <p>5 MS. BALDWIN: Can we take a brief break?</p> <p>6 THE WITNESS: Sure.</p> <p>7 (Break.)</p> <p>8 Q. (BY MS. BALDWIN) Senator Patrick, before we</p> <p>9 were talking about whether and the extent to which you</p> <p>10 considered the Voting Rights Act and rates of ID</p> <p>11 possession. I want to present you a hypothetical.</p> <p>12 If you were told that approximately 10 percent</p> <p>13 of registered voters didn't have one of the forms of</p> <p>14 acceptable ID under SB 362 and that those 10 percent</p> <p>15 were disproportionately poor, that it was difficult to</p> <p>16 get an ID and that they were disproportionately a</p> <p>17 racial minority, would those combination of factors be</p> <p>18 something that you would have considered?</p> <p>19 THE WITNESS: I'll ask a question of my</p> <p>20 counsel. Do I have to answer hypotheticals?</p> <p>21 MS. DONNELLY: You do if you understand</p> <p>22 them.</p> <p>23 Can we break this down, Counsel? There</p> <p>24 were a lot of parts to your question.</p> <p>25 Q. (BY MS. BALDWIN) It's actually the</p>	<p style="text-align: right;">84</p> <p>1 a premise I agree with, that -- and I don't know what</p> <p>2 the numbers are, obviously. And you asked me a</p> <p>3 hypothetical. I do not agree with the premise that a</p> <p>4 significant number of people do not have or cannot get</p> <p>5 a photo ID.</p> <p>6 And remember, even -- and if you look</p> <p>7 since -- not through 62, but since SB 14 passed, we've</p> <p>8 had, I believe, five total elections, maybe more, from</p> <p>9 city to state, county. You know, I don't think there</p> <p>10 have been any complaints. I'm not -- I'm personally</p> <p>11 not aware. It doesn't mean there haven't been a few,</p> <p>12 but we've had millions of people vote.</p> <p>13 And I think, in some cases, voter turnout is</p> <p>14 actually higher. Sometimes the primaries are not,</p> <p>15 depending if it's the presidential or a gubernatorial</p> <p>16 year. But here we are, in 2014.</p> <p>17 I'm not -- when you ask me am I aware of what</p> <p>18 people think, I'm not aware of one complaint. Maybe</p> <p>19 there has been to my office. I'm not aware of one</p> <p>20 person that's complained, and I do have a district</p> <p>21 where -- where, as I said earlier, I don't know the</p> <p>22 exact number, but I think somewhere around 30 percent</p> <p>23 plus, 35, 38 percent, are minority.</p> <p>24 I'm not aware of any complaints to the</p> <p>25 Secretary of State. Maybe there have been -- the only</p>

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22 (Pages 85 to 88)

<p style="text-align: right;">85</p> <p>1 thing that I -- I think I read a story about someone</p> <p>2 complaining because they showed up and left it at</p> <p>3 home.</p> <p>4 So I think that what -- the bill that we</p> <p>5 passed, I think we were thoughtful. We tried to take</p> <p>6 into account the hypotheticals that you present to us,</p> <p>7 and I think the proof would show five years -- or not</p> <p>8 five years -- three years, after the fact, that</p> <p>9 students aren't complaining, seniors aren't</p> <p>10 complaining, minorities aren't complaining, and voting</p> <p>11 turnout is healthy.</p> <p>12 Q. (BY MS. BALDWIN) You're aware that the law is</p> <p>13 currently being subjected to challenge under the</p> <p>14 Voting Rights Act, for having a racially</p> <p>15 discriminatory impact, including by plaintiffs in the</p> <p>16 state of Texas. Does that count as complaining to</p> <p>17 you?</p> <p>18 MS. DONNELLY: Objection to the form of</p> <p>19 the question.</p> <p>20 A. Anyone can sue anyone for anything, but I'm</p> <p>21 not aware of constituents and voters in any large</p> <p>22 numbers complaining that they in some way were</p> <p>23 disenfranchised. And remember, for the record, let's</p> <p>24 be very clear, if you show up and don't have a voter</p> <p>25 ID and your name is on the voter rolls, you can still</p>	<p style="text-align: right;">87</p> <p>1 have said, "Oh, my goodness, I couldn't get an ID or I</p> <p>2 couldn't vote," so...</p> <p>3 Q. Have you looked into the number of</p> <p>4 provisional ballots that have been cast since SB 14</p> <p>5 has been in effect, for voters who didn't have ID, who</p> <p>6 were not able to cure within the six-day period and as</p> <p>7 a result those votes weren't counted?</p> <p>8 A. I have not.</p> <p>9 Q. So you're not -- if you haven't looked into</p> <p>10 that, how do you know that voters aren't being</p> <p>11 affected in the past five elections?</p> <p>12 A. When voters aren't happy, you hear from them.</p> <p>13 They call your office. They find a reporter. They</p> <p>14 show up on a news station. And, again, there may have</p> <p>15 been a report somewhere or a news story or -- you</p> <p>16 know, somewhere, but I'm just not aware of any.</p> <p>17 And, again, we're talking about millions of</p> <p>18 people. Could there have been a handful? I mean, I</p> <p>19 don't know. But I'm sure not aware of anyone.</p> <p>20 You would have to show me that a significant</p> <p>21 number of people felt they couldn't vote. I just</p> <p>22 haven't seen it.</p> <p>23 So I think the bill has been a success; and I</p> <p>24 think people, minority and majority, have embraced it</p> <p>25 and feel that we have integrity at the ballot box.</p>
<p style="text-align: right;">86</p> <p>1 vote a provisional ballot.</p> <p>2 Q. (BY MS. BALDWIN) But that ballot won't cast</p> <p>3 unless you show up within six days. You make a</p> <p>4 separate trip and show that you do, in fact, have a</p> <p>5 valid form of identification; isn't that correct?</p> <p>6 A. Well, that is correct, because we have a</p> <p>7 voter ID law.</p> <p>8 But the suggestion that a person can't vote</p> <p>9 if they're registered to vote and don't have a photo</p> <p>10 ID, they do -- they can cast a provisional ballot and</p> <p>11 they do have -- and they are given leeway to go back</p> <p>12 and -- and -- if they left it at home or if they</p> <p>13 didn't have it or they can get it, so I just -- it --</p> <p>14 it -- I just -- I'm actually very, very pleased.</p> <p>15 Whenever we pass legislation, we</p> <p>16 always -- whatever legislation it is -- I passed a big</p> <p>17 education bill last session on major reform and you</p> <p>18 always want to see the result of it, and so it makes</p> <p>19 me feel good in the case of the education reforms that</p> <p>20 we passed last session when I hear parents and</p> <p>21 superintendents say, you know, "This is really working</p> <p>22 well." And, no, it doesn't mean 100 percent of the</p> <p>23 people are happy. You never get 100 percent.</p> <p>24 And so in this case, there just hasn't been</p> <p>25 any, that I'm aware of, any large number of people who</p>	<p style="text-align: right;">88</p> <p>1 Q. Would it matter to you if there were hundreds</p> <p>2 of votes from Harris County alone that hadn't been</p> <p>3 able to be counted because they were provisional votes</p> <p>4 and voters without ID?</p> <p>5 A. Hundreds of votes?</p> <p>6 Q. That were not counted because those voters</p> <p>7 came to vote, lacked ID, and for whatever reason</p> <p>8 didn't cure within the period.</p> <p>9 A. Well, as you've said, for whatever reasons.</p> <p>10 I don't know what the reason was. And secondly,</p> <p>11 hundreds of votes out of millions cast, I don't know</p> <p>12 what the percentage of that would be. It would be a</p> <p>13 very small percentage. But I don't know the reasons</p> <p>14 behind every one of those, so I can't tell you that I</p> <p>15 would be concerned when I don't know the reasons.</p> <p>16 Q. So hundreds of votes, that would just be the</p> <p>17 cost of doing business if those voters were</p> <p>18 disfranchised?</p> <p>19 MS. DONNELLY: Objection to the form of</p> <p>20 the question. This is argumentative.</p> <p>21 A. Yeah, that's your word. I wouldn't say that.</p> <p>22 Q. (BY MS. BALDWIN) How many -- how many voters</p> <p>23 would it take to have their provisional ballots not be</p> <p>24 counted for that to count as a significant impact to</p> <p>25 you?</p>

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23 (Pages 89 to 92)

<p style="text-align: right;">89</p> <p>1 A. There is -- let's go back to what the law is. 2 There is not a reason, in my view, or in the view of 3 the majority of citizens in the state of Texas, that a 4 person should not be able to get a photo voter ID. 5 In fact, I think the data -- I'm thinking, 6 don't have it in front of me -- but I think I have 7 read a story that there were very few people who went 8 to DPS to get a free ID, free photo ID. We made that 9 available. There were very few who did. 10 Again, I go back to this: You've asked me a 11 lot of hypotheticals; in my opinion, and what do I 12 think. I think very few people in America don't have 13 a photo ID that would be acceptable to vote or that 14 they can't get. 15 Are there some people? There probably are 16 some people. But I don't know who they are and what 17 effort they've made to get it. 18 Q. And if it's difficult for those people to get 19 the ID, the percentage that don't have it, and they're 20 disproportionately minority, those aren't significant 21 concerns for you? 22 MS. DONNELLY: Objection. 23 Argumentative. 24 A. You keep -- you're a very nice person; but 25 you keep trying to characterize it from your point of</p>	<p style="text-align: right;">91</p> <p>1 You can answer. 2 A. Yeah, I'm not aware of that. 3 Q. (BY MS. BALDWIN) That's not information 4 you've ever...? 5 A. No, I've never seen the statistics on it. 6 Q. If I represented to you that it is the case 7 according to the Census Bureau, that African-American 8 households lack access to a car at a higher rate than 9 Anglos, would that surprise you? 10 A. It might. I mean, I don't -- I've just never 11 really thought about it. 12 Q. Okay. And -- 13 A. When you say "access," you didn't say 14 ownership. Access, I would say that almost every 15 person, no matter of their color, knows someone who 16 has a car. I think that would be -- if I were asking 17 you the hypothetical question, do you think most 18 people know someone who has a car, and if most people 19 know someone who has a car, then most people might 20 have access to a car. 21 Q. Is it harder to get to a DPS office if you 22 have to ask someone else for a ride than if you own a 23 car yourself? 24 A. Not necessarily. 25 Q. You don't think it imposes a different burden</p>
<p style="text-align: right;">90</p> <p>1 view, what my point of view is. Your point of view 2 and my point of view are not the same. 3 I'm -- I'm always concerned about every 4 person and I want every bill that we pass that we try 5 to do the best we can. 6 Q. (BY MS. BALDWIN) Are you aware of statistics 7 showing that rates of poverty in the state of Texas 8 are higher among African-Americans than Anglos? 9 A. Am I aware -- 10 Q. Sitting here today. 11 A. -- of that? 12 I would say I'm generally aware of that. 13 Q. And have you been aware of that throughout 14 the time that you've served in the Texas Senate? 15 A. I don't know throughout the time. But from 16 time to time I've -- you know, it's come up in a 17 particular -- whether it's health and human services, 18 education, or whatever it might be. 19 Q. And are you also aware that African-Americans 20 are disproportionately like -- less -- let me start 21 over. 22 Are you also aware that fewer 23 African-American households have access to a car than 24 Anglo households in Texas? 25 MS. DONNELLY: Objection. Form.</p>	<p style="text-align: right;">92</p> <p>1 if I have to go ask a family member to give me a ride 2 than if I can just go get in my own car? 3 A. I think people ask people for rides all the 4 time, whether it's to go to the grocery store or go to 5 the airport or go to the doctor's office, who don't 6 have a car. And for people who are -- who have public 7 transportation available to them, that's the option as 8 well. 9 Q. But you've said within your district it's 10 likely that there are many people who don't have 11 access to public transportation to get to a DPS 12 office, correct? 13 A. Most people who live in areas where you don't 14 have public transportation, which would be in -- in 15 your unincorporated areas where there isn't bus 16 service, or in rural Texas, when they move to those 17 areas they know that. 18 And so most people who live in those areas 19 have access to a car -- access can be a friend or a 20 relative -- because they know they have to leave the 21 house at some time and they can't walk to the mall. 22 I go to the mall in my area, Willowbrook 23 Mall, for example, and I'm sure not everyone at 24 Willowbrook Mall that I see shopping has a car, and 25 there isn't a bus that takes them there, but they get</p>

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24 (Pages 93 to 96)

<p style="text-align: right;">93</p> <p>1 there.</p> <p>2 So I think most people who live in areas</p> <p>3 where there isn't public transportation know someone</p> <p>4 who can help them get to a doctor or get to the</p> <p>5 grocery store or get to the mall or get to DPS.</p> <p>6 That's just my -- I don't think most people move to</p> <p>7 the country without any ability to go anywhere.</p> <p>8 Q. But that's an additional burden that people</p> <p>9 without a car have to navigate?</p> <p>10 A. I don't think it's a burden. I think it's a</p> <p>11 choice that they have made to live in an area that</p> <p>12 maybe is less congested and -- that's their decision.</p> <p>13 I don't think it's a -- I think it's choice. I don't</p> <p>14 think it's a burden.</p> <p>15 Q. So if you live in a county without a DPS</p> <p>16 office, is that a choice you -- and you don't have a</p> <p>17 driver's license, is that a choice you've made that</p> <p>18 it's going to be more difficult for you to go get an</p> <p>19 acceptable form of voter identification or a burden</p> <p>20 that the state of Texas has imposed?</p> <p>21 MS. DONNELLY: Objection. Form.</p> <p>22 A. I can't -- I mean, you're asking me a</p> <p>23 question I can't possibly answer.</p> <p>24 Q. (BY MS. BALDWIN) Okay. Do you recall during</p> <p>25 the consideration of SB 362 that there was a</p>	<p style="text-align: right;">95</p> <p>1 you're asking me questions about a bill that didn't --</p> <p>2 in essence, we've passed a bill since then.</p> <p>3 But you're asking me about a bill that's five</p> <p>4 years old, that's one of -- if you asked me the same</p> <p>5 questions about most bills that passed or I voted on</p> <p>6 or voted against in 2009, my answer would be the same,</p> <p>7 because, you know, you just -- it's a lot of</p> <p>8 information that we -- you know, that we process at a</p> <p>9 given time and you move on to the next issue, so...</p> <p>10 Q. Okay. I'd like to show you some testimony</p> <p>11 that was given on SB 362 in an exhibit that I'll mark</p> <p>12 as Number 3.</p> <p>13 A. Okay.</p> <p>14 (Patrick Exhibit 3 marked/introduced.)</p> <p>15 Q. (BY MS. BALDWIN) Sitting here today, Senator</p> <p>16 Patrick, do you recall that there was any testimony</p> <p>17 presented to the Senate when it was meeting as a</p> <p>18 committee of the whole, about whether minority voters</p> <p>19 were less likely to possess acceptable photo ID than</p> <p>20 Anglo voters?</p> <p>21 A. I don't -- I don't remember the specific</p> <p>22 testimony. If it's here, I'm happy to read it, but I</p> <p>23 don't recall it.</p> <p>24 Q. Sure. I'd like to turn to, in this exhibit,</p> <p>25 which is testimony from Tuesday, March 10, 2009, on</p>
<p style="text-align: right;">94</p> <p>1 discussion of the percentage of registered voters who</p> <p>2 didn't have a driver's license on file with the</p> <p>3 Secretary of State?</p> <p>4 A. No.</p> <p>5 Q. Is that something that you would have</p> <p>6 considered?</p> <p>7 A. I don't know.</p> <p>8 Q. Would it have mattered to you if 12 percent</p> <p>9 of registered voters weren't on file with having a</p> <p>10 driver's license number with the Secretary of State?</p> <p>11 MS. DONNELLY: Objection. Form.</p> <p>12 Go ahead.</p> <p>13 A. I think I've answered this question already.</p> <p>14 You'd have to break down the 12 percent and -- you</p> <p>15 know.</p> <p>16 Q. (BY MS. BALDWIN) Did you seek to break down</p> <p>17 any number of voters who didn't have driver's license</p> <p>18 numbers on file with their voter registration record?</p> <p>19 A. Well, first of all, I answered that. I don't</p> <p>20 recall the conversation or that fact, so I don't</p> <p>21 recall.</p> <p>22 Q. You don't recall doing any follow-up about</p> <p>23 that?</p> <p>24 A. No. And I -- and I -- and I -- again, not</p> <p>25 trying to be argumentative or difficult, we're --</p>	<p style="text-align: right;">96</p> <p>1 the page that's Bates numbered TX 00004155, testimony</p> <p>2 from Tova Andrea Wang.</p> <p>3 A. Okay.</p> <p>4 Q. And I'm just going to read some of her</p> <p>5 testimony and ask for your reaction.</p> <p>6 A. Okay.</p> <p>7 Q. Starting on Line Number 25: "I want to start</p> <p>8 out talking about the disenfranchising impacts of</p> <p>9 voter ID such as this. I know that for probably all</p> <p>10 of you in the room -- and I would include myself -- it</p> <p>11 seems so easy. You have an ID in your pocket right</p> <p>12 now, probably several. But I have to really emphasize</p> <p>13 to you all that it's not the case for everybody. For</p> <p>14 some people, they don't have their ID, and it would be</p> <p>15 a real hardship for them to get that ID, and we need</p> <p>16 to understand this group in our society. In fact,</p> <p>17 about 10 percent of the American people don't have</p> <p>18 government-issued photo ID. And as has been pointed</p> <p>19 out repeatedly today, this is disproportionately the</p> <p>20 case with African-Americans, immigrants, the poor,</p> <p>21 people with disabilities, senior citizens and</p> <p>22 students.</p> <p>23 "There have been numerous studies to this</p> <p>24 effect. I want to point out one in particular,</p> <p>25 Brennan Center survey, talking just about income.</p>

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25 (Pages 97 to 100)

<p style="text-align: right;">97</p> <p>1 People with incomes lower than \$35,000 a year are</p> <p>2 twice as likely not to have the kind of ID we're</p> <p>3 talking about. 38 percent of Texans have incomes that</p> <p>4 are less than \$35,000 a year. African-Americans are</p> <p>5 three times less likely to have ID than whites. And,</p> <p>6 in fact, one-fourth of African-Americans don't have</p> <p>7 government-issued photo ID."</p> <p>8 Rereading that testimony now, Senator</p> <p>9 Patrick, does it refresh your recollection as to</p> <p>10 hearing it at the time, in 2009?</p> <p>11 A. No.</p> <p>12 Q. And do you know whether you took any steps to</p> <p>13 look into the Brennan Center study that's cited in</p> <p>14 this testimony?</p> <p>15 A. No.</p> <p>16 Q. You've testified repeatedly about relying on</p> <p>17 polls showing support for photo ID. Did you do any</p> <p>18 research about the impact of photo ID?</p> <p>19 A. Don't recall.</p> <p>20 Q. What's your reaction to this testimony,</p> <p>21 sitting here today?</p> <p>22 MS. DONNELLY: Objection. Vague.</p> <p>23 A. Yeah, do you want -- would you like to be</p> <p>24 specific?</p> <p>25 Q. (BY MS. BALDWIN) You've testified repeatedly</p>	<p style="text-align: right;">99</p> <p>1 would just lead, potentially, to a lot of questions.</p> <p>2 So it doesn't -- it doesn't jump off the page at me.</p> <p>3 Q. (BY MS. BALDWIN) But the questions that it</p> <p>4 would lead to today, they're not questions that you</p> <p>5 recall doing anything to answer in 2009?</p> <p>6 MS. DONNELLY: Objection. Vague.</p> <p>7 A. I mean, I just don't recall. And the -- and</p> <p>8 the other thing I was going to say, and I just kind of</p> <p>9 paused for a second, it doesn't mean that some of</p> <p>10 these people are -- I don't know what percentage were</p> <p>11 over 65 and can vote by mail where you don't need a</p> <p>12 photo ID.</p> <p>13 So, hypothetically, 80 percent of the 10</p> <p>14 percent could be over 65 and vote by mail, so... And</p> <p>15 that may have, you know, not been a question that I</p> <p>16 asked. It may have gone through my thought process at</p> <p>17 the time. I don't recall.</p> <p>18 Q. (BY MS. BALDWIN) SB 362 didn't ultimately</p> <p>19 pass; is that correct?</p> <p>20 A. I'd have to go back and look at the flow of</p> <p>21 the bill.</p> <p>22 Q. Do you --</p> <p>23 A. It didn't become law.</p> <p>24 Q. It didn't become law. That's a better way of</p> <p>25 putting it. Thank you.</p>
<p style="text-align: right;">98</p> <p>1 that you just don't think that there are very many</p> <p>2 people who lack photo ID.</p> <p>3 Does it concern you that there are studies</p> <p>4 that show that up to 10 percent of people lack the</p> <p>5 forms of photo ID that are --</p> <p>6 MS. DONNELLY: Objection.</p> <p>7 Mischaracterizes testimony.</p> <p>8 You can answer.</p> <p>9 A. First of all, I don't know what the Brennan</p> <p>10 study is. I don't remember this testimony. I don't</p> <p>11 believe I asked any questions based on the record.</p> <p>12 I don't know if I studied the Brennan study.</p> <p>13 I don't know if it's -- I don't know what it's based</p> <p>14 on. But, again, as I said earlier, in the polls, you</p> <p>15 know, so I -- you know, I don't know the validity of</p> <p>16 it.</p> <p>17 Again, if I were to look at this, of that</p> <p>18 percentage, some are listed with disabilities</p> <p>19 and -- and we addressed that. Some of these folks</p> <p>20 live in areas where they could easily get one.</p> <p>21 I don't even know what percentage of these</p> <p>22 people -- what if the 10 percent of these people</p> <p>23 aren't even registered to vote? I mean, I don't know</p> <p>24 that they are or they aren't.</p> <p>25 So it doesn't -- you know, there -- this</p>	<p style="text-align: right;">100</p> <p>1 A. All right.</p> <p>2 Q. Do you know what happened to SB 362 in the</p> <p>3 House?</p> <p>4 A. I do not recall.</p> <p>5 Q. I'd like to turn to SB 14, and I know we</p> <p>6 talked about this a little bit at the beginning of the</p> <p>7 day, but just to be clear: Could you explain what</p> <p>8 your specific role was in the development of the</p> <p>9 language of SB 14 as introduced?</p> <p>10 A. To the best of my recollection, pretty much</p> <p>11 zero. To the best of my recollection. If there's</p> <p>12 some document or someone would testify otherwise, then</p> <p>13 my memory is refreshed. But as I recall, more than a</p> <p>14 general discussion that maybe we had, in a caucus</p> <p>15 meeting, about what should be in the bill of that.</p> <p>16 But specifically, myself, I don't recall</p> <p>17 working with -- with the -- who I would view as the</p> <p>18 author of the bill, Troy Fraser.</p> <p>19 And the -- and my only involvement, to answer</p> <p>20 your question, was two amendments, as I recall. And I</p> <p>21 refreshed my memory on this a little bit yesterday</p> <p>22 because I didn't -- it was the amendment about people</p> <p>23 with severe disabilities and an amendment with</p> <p>24 Democratic Senator Hinojosa on CHLs.</p> <p>25 So that would have been my only involvement</p>

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<p style="text-align: right;">101</p> <p>1 with the -- with the author, and I think that occurred 2 somewhere -- so we need -- I want to be very clear 3 that I'm answering accurately. 4 I didn't craft the bill. But at some point I 5 believe that I talked with the author of the bill, 6 hence Senator Hinojosa, and said, "Look, you know, I 7 think we ought to do these things." But in terms of 8 the overall bill, to my recollection, very little. 9 Q. Prior to the bill being introduced in this 10 next session as SB 14, were there discussions of what 11 the provisions of it should be in Republican caucus 12 meetings? 13 A. You know, I -- there could have been and 14 there probably were, but I -- I don't recall. I don't 15 really remember anything specific, you know. 16 We -- we were probably talking about a lot of 17 different things, as we would normally do with an 18 upcoming session of what bills we want to move 19 forward, and I'm sure this was part of that 20 discussion. 21 Q. Do you recall any discussion about changes 22 that should be made to 362 and to the bill that became 23 SB 14? 24 A. I don't recall -- I don't recall the 25 discussion. But obviously, somewhere along the line,</p>	<p style="text-align: right;">103</p> <p>1 involved actually in drafting; is that correct? 2 A. And I want to be very careful how to answer 3 that. I don't recall being heavily involved in the 4 crafting of this bill. 5 Could there have been a discussion? Could 6 someone have asked me my thoughts on something 7 beforehand that was part of the bill? Could have. 8 But I was, in the typical sense, an author of 9 a bill, who would kind of birth it and write it and 10 edit it and review it with people, I was not in 11 that -- I was not at that point. 12 Q. And, again, even as you're qualifying that 13 you may have had conversations, is it correct that 14 sitting here today you remember none of the specifics 15 of any such conversation or even general topics or 16 even who you spoke to? 17 A. With the exception of, I -- and I don't even 18 recall the conversations. But obviously, since 19 Senator Hinojosa and I passed an amendment that I 20 think I was a joint author of the amendment or 21 co-author of the amendment, I think, obviously, I 22 discussed that with him. 23 And my -- and any time you offer an 24 amendment -- I shouldn't say any time. Most of the 25 time when you offer an amendment, you go to the author</p>
<p style="text-align: right;">102</p> <p>1 there was a discussion. I just don't know if I was in 2 it or not, or if it was Senator Fraser and a small 3 group of people or a big group of people making the 4 changes. 5 Q. Did you do any independent research on voter 6 ID in between consideration of 362 and SB 14 for your 7 own purposes? 8 A. I don't recall. I don't recall. 9 (Patrick Exhibit 4 marked/introduced.) 10 Q. (BY MS. BALDWIN) I'm going to hand you a 11 document to be marked as Exhibit 4. And at the top of 12 this document it identifies that it is SB No. 14. 13 A. Okay. 14 MR. CLAY: I'm sorry, this is 4? 15 MS. BALDWIN: Yes. 16 Q. (BY MS. BALDWIN) Do you recognize this 17 document, Senator Patrick? 18 A. Again, very specifically, do I recognize it? 19 No. But I see that it is a bill. 20 Q. And do you see that it's the signed version 21 of SB 14? 22 A. Yes, ma'am. 23 Q. And as we discussed earlier, you were listed 24 as an author of this bill. But as you've just 25 testified, just to make sure I understand, you weren't</p>	<p style="text-align: right;">104</p> <p>1 of the bill and say, "Look, I'd like to author this 2 amendment. What do you think? Would you accept it or 3 not accept it? And if not, what can I do so you'll 4 accept it?" 5 So, obviously, there was a discussion at some 6 point with Senator Fraser, but I don't recall the 7 specifics. 8 Q. Were all Republican senators listed as 9 authors of SB 14? 10 A. I don't know. I just don't know. I think 11 possibly, but I don't know. 12 Q. Let me see if this document -- it's just a 13 legislative history document -- refreshes your 14 recollection. 15 A. Yes, this would show that -- well, let me 16 see. There were 20 of us. So I see 19 names. 17 Q. Okay. 18 A. I don't know if that's just an error or... 19 Q. Okay. Are all of the names listed of 20 Republican senators? 21 A. Yes. 22 Q. And is it unusual to have 19 people all 23 listed as authors on a bill? 24 A. No. I passed my first legislation, I put "In 25 God We Trust" in the Senate, and I had 31, as I</p>

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<p style="text-align: right;">105</p> <p>1 recall, authors. All Democrats and all Republicans 2 who were authors. So I don't know how frequently it 3 happened, but it's not -- it's -- it happens. 4 Q. And why were so many people -- why did you 5 want to be listed as an author on this bill, yourself, 6 personally? 7 A. I don't even know that I -- personally, I 8 don't recall asked to be. I don't know that anyone 9 asked. It may have just been an accommodation that 10 Senator Fraser -- you'd have to ask him. I don't -- I 11 don't recall. 12 Because, again, in the last deposition I 13 didn't even remember that, to be honest with you. I 14 was confused. I kept saying, "I'm not an author." 15 And they kept saying, "Yes, you are." And I said, 16 "No, I'm not." And -- and then I figured out why. 17 So I -- I don't recall asking. I don't know 18 if anyone asked. He may have just said, "Look, I'd 19 like for all of you to author the bill." It was a 20 piece of legislation that -- that we were proud of. 21 And -- and when I passed "In God We Trust" in 22 the Senate, no one asked me, but I just went to the 23 senators and said, "Look, I'm going to -- it hasn't 24 been up there in 100 years and would you like to be an 25 author of it?" And so that's probably how it</p>	<p style="text-align: right;">107</p> <p>1 A. And let me clarify that, since the question 2 was asked, and maybe I shouldn't have been so quick to 3 answer. If you're suggesting that this bill did not 4 impact mail-in ballots, then that would be correct. 5 That's how I'm interpreting your question, and I 6 should not interpret your question. 7 Q. (BY MS. BALDWIN) Can you think of any other 8 kind of fraud that SB 14 -- other than in-person voter 9 impersonation -- would work to prevent? 10 A. As I sit here today, no. I would have to 11 study all that. 12 Q. Okay. Could you turn to page 9 of the bill, 13 which is Section 14? 14 A. Was this an exhibit, by the way? You handed 15 this to me. 16 Q. It's just to refresh your recollection. 17 A. Okay. All right. 18 Q. And this is the section that sets out the 19 allowable forms of photo ID under SB 14; is that 20 correct? 21 A. Yes. 22 Q. Do you know why these specific forms of 23 identification were included and not others? 24 A. I do not. 25 Q. Did you have any conversations with</p>
<p style="text-align: right;">106</p> <p>1 happened. 2 Q. Was SB 14 a priority of the Republican Party 3 of Texas? 4 A. We have a lot of priorities each session and 5 that was a -- that was one of our priorities. 6 Q. What was the purpose of SB 14? 7 A. As I answered earlier: To protect the 8 integrity of the ballot box and -- and pass a bill 9 that the vast majority of people had indicated they 10 wanted passed and believed should pass. 11 Q. So is it fair to say that the purpose of 12 SB 14 was the same purpose as SB 362? 13 A. I'm always careful when you characterize 14 something, but I think that's probably a fair 15 characterization. 16 Q. And is the only kind of fraud that could have 17 been prevented by SB 14 in-person voter impersonation 18 fraud? 19 A. I -- I believe that would be an accurate 20 statement. 21 MR. CLAY: Could you read the question 22 back again, please. 23 THE REPORTER: "And is the only kind of 24 fraud that could have been prevented by SB 14 25 in-person voter impersonation fraud?"</p>	<p style="text-align: right;">108</p> <p>1 constituents about what forms of ID to include in this 2 bill? 3 A. If I did, I don't recall specifics. And when 4 I -- in the previous question, I said "I do not," 5 what -- I don't recall any, so, of -- or why. 6 Q. Did you have any conversations with -- other 7 than about the concealed handgun license -- with other 8 senators -- about what forms of ID to include in the 9 bill? 10 A. I may or may not have. I don't recall. 11 Q. Do you know if under SB 14 a voter can show 12 nonphoto ID and still cast a regular ballot? 13 A. I'd have to go back through and be sure, but 14 I believe you must have a photo voter ID. 15 Q. So that's a difference between SB 362 and 16 SB 14; is that right? 17 A. Yes, ma'am. 18 Q. And what was the purpose of removing the 19 option of showing nonphoto ID from the prior bill? 20 A. You'd have -- you'd have to ask other folks. 21 I don't know. 22 Q. Do you know who made that decision? 23 A. I do not. No. 24 Q. So you're not aware of what changed between 25 2009 and 2011 that made nonphoto ID acceptable in one</p>

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<p style="text-align: right;">109</p> <p>1 session but not in this session?</p> <p>2 MS. DONNELLY: Objection. Form.</p> <p>3 You can answer.</p> <p>4 A. I don't know that this is the accurate</p> <p>5 answer, but it could be part of the answer. For</p> <p>6 example, when we go into session in 2015, this coming</p> <p>7 session, of the 31 senators, I believe 22 will be new</p> <p>8 since I was elected.</p> <p>9 And I believe in 2011 -- I'd have to go back,</p> <p>10 but I think there were two new -- I can't remember the</p> <p>11 mix, but you always have different members and</p> <p>12 different members have different contributions to a</p> <p>13 bill or different opinions on a bill. So you may have</p> <p>14 had -- may have had members on any given bill.</p> <p>15 Bills all the time change from session to</p> <p>16 session because members change. Maybe sometimes</p> <p>17 information changes, but it's usually, you know,</p> <p>18 members that change. In the House we have an even</p> <p>19 bigger turnover, so that -- that may have been part of</p> <p>20 it, but that's speculation and I shouldn't speculate.</p> <p>21 Q. (BY MS. BALDWIN) But other than personnel</p> <p>22 change, in substance you don't know why SB 14 was made</p> <p>23 more restrictive?</p> <p>24 MS. DONNELLY: Objection. Form.</p> <p>25 A. I don't recall. But, you know,</p>	<p style="text-align: right;">111</p> <p>1 A. Not that I recall.</p> <p>2 Q. Would that have been information that would</p> <p>3 have been useful to consider?</p> <p>4 A. Yeah, that's a -- kind of a hypothetical. I</p> <p>5 mean, we -- well, this issue, you know, we had already</p> <p>6 worked on the session before, and so whatever</p> <p>7 information was available was available. And we had</p> <p>8 debated it, considered it and heard testimony. So --</p> <p>9 so -- you know, I just don't -- I don't recall</p> <p>10 anything in 2011 specifically.</p> <p>11 Q. The bill changed significantly from 2009 to</p> <p>12 2011, didn't it?</p> <p>13 MS. DONNELLY: Objection. Form.</p> <p>14 A. Yeah, I -- you know, it depends on how you</p> <p>15 say signifi- -- I'd have to go back and read and</p> <p>16 compare it and do an analysis, but obviously there</p> <p>17 were some changes.</p> <p>18 Q. (BY MS. BALDWIN) And you don't know, again,</p> <p>19 the reason for why any of those changes were made?</p> <p>20 A. If I did then, I don't remember today why the</p> <p>21 changes were made.</p> <p>22 Q. Would you agree that SB 362 was a more</p> <p>23 lenient bill in the sense that there were more forms</p> <p>24 of ID that were acceptable than SB 14?</p> <p>25 A. I wouldn't characterize it as "lenient." It</p>
<p style="text-align: right;">110</p> <p>1 this -- today, sitting here, I don't recall.</p> <p>2 Q. (BY MS. BALDWIN) Do you know what the purpose</p> <p>3 of removing the option for a voter to show a</p> <p>4 federally-issued photo ID as was allowed under SB 362</p> <p>5 was?</p> <p>6 A. I don't -- I -- these are some of these areas</p> <p>7 that sometimes if you're sitting with someone and they</p> <p>8 refresh your memory, you say, "Oh, yeah, okay, I</p> <p>9 remember that." But sitting here today, I don't</p> <p>10 recall.</p> <p>11 And as I said at the very beginning, I have</p> <p>12 had -- I have had, to my recollection, very, very</p> <p>13 little conversation about the bill since it's passed,</p> <p>14 or communication since it's passed. It passed and we</p> <p>15 moved on. So it's not something I've thought about</p> <p>16 since 2011.</p> <p>17 Q. Did you conduct any analyses as to how many</p> <p>18 registered voters possess the required forms of ID</p> <p>19 required by SB 14?</p> <p>20 A. Not that I recall.</p> <p>21 Q. Did you ask that any analysis be conducted?</p> <p>22 A. Not that I recall.</p> <p>23 Q. Are you aware of any supporters of SB 14 who</p> <p>24 asked for any analysis of how many voters had the</p> <p>25 required forms of ID?</p>	<p style="text-align: right;">112</p> <p>1 was just a different bill.</p> <p>2 Q. How would you characterize the difference</p> <p>3 between the differences in allowable IDs between the</p> <p>4 two bills?</p> <p>5 A. I wouldn't characterize it. I would let the</p> <p>6 documents speak for themselves. And there were</p> <p>7 more -- there were more options under 362 than 14.</p> <p>8 Q. Does it follow that the more options there</p> <p>9 are, the more likely a voter is to have one of those</p> <p>10 acceptable options?</p> <p>11 A. Not necessarily. But, you know, I mean, the</p> <p>12 purpose of the bill was to protect the integrity of</p> <p>13 the ballot box, and I think at the end of the day</p> <p>14 there had obviously been a decision between 2009 and</p> <p>15 2011 that this was a better bill.</p> <p>16 Q. So is it your view that SB 14 served that</p> <p>17 purpose better than SB 362?</p> <p>18 A. To protect the integrity of the ballot box,</p> <p>19 yes.</p> <p>20 Q. And why is that?</p> <p>21 A. Because we eliminated being able to vote</p> <p>22 without a photo that you could do in SB 362.</p> <p>23 Q. Do you recall during the consideration of</p> <p>24 SB 14 of whether other senators raised concerns about</p> <p>25 the burdens that voters without an ID would face in</p>

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<p style="text-align: right;">113</p> <p>1 getting an election identification certificate from 2 DPS? 3 A. I don't recall. 4 Q. Do you recall there being any testimony about 5 the fact that not all counties have a DPS office? 6 A. You'd have to show it to me, but I do recall 7 that that was a question. I mean, I don't recall the 8 extent of it or who did -- or who said what, but... 9 Q. And was there also debate about and testimony 10 about the fact that even in counties that have DPS 11 offices, they're not necessarily open five days a 12 week, some are only -- have limited hours? 13 A. I don't recall that specific. 14 Q. Did the legislature do anything to address 15 the fact that not every county has DPS offices? 16 A. I don't know specifically. I'd have to go 17 back and look at my own amendment. I think that may 18 have been addressed for people with severe 19 disabilities, but I'm not positive. 20 Q. But other than for disabled voters; for poor 21 voters, for example? 22 A. I don't recall. You'd have -- the document, 23 as I often say on the Senate floor, in a debate, 24 speaks for itself. 25 Q. Would you agree that for some voters without</p>	<p style="text-align: right;">115</p> <p>1 never heard one Democrat senator or a Republican 2 senator who represents a rural area, since this bill 3 passed, say to me that it was a burden. 4 Q. Have you actively inquired, as to whether 5 it's a burden, from any colleagues? 6 A. I don't actively inquire on a number of bills 7 that we pass. Usually, if there's a problem with a 8 bill that we pass, someone will bring it up to you, 9 you don't have to ask them, if they're a problem. 10 Q. But you've represented a number of times that 11 there are hundreds of bills, thousands of votes, and 12 that after it's done you put it out of mind. 13 A. Uh-huh. 14 Q. But you expect that if there are problems 15 people will bring it up affirmatively without you 16 taking any further investigation? 17 A. That's pretty much how the system works. You 18 know, sometimes you pass legislation that just may 19 have a techni- -- you know, some kind of -- as we call 20 them, unintended consequences at times. And, believe 21 me, either -- you know, someone brings it to your 22 attention. And sometimes it's valid to try and fix it 23 in the next session, sometimes it's not. 24 But, I mean, I can sit here honestly today 25 and say I don't think I've had one senator, including</p>
<p style="text-align: right;">114</p> <p>1 acceptable ID, the farther they have to travel to get 2 an EIC, the less likely they are to get one? 3 MS. DONNELLY: Objection. Form. 4 A. Yeah. Again, you're characterizing it, 5 but -- but my answer would be no. 6 Q. (BY MS. BALDWIN) So you think if a voter has 7 to travel 150 miles round-trip, that's not going to 8 impact whether or not they get an EIC? 9 A. Once again, you would have to give me the 10 specifics of that voter. Is that voter over 65? If 11 they're over 65, they can vote from mail, so it 12 obviously wouldn't impact them. You would have to 13 give me the specifics of a voter who you might be 14 trying to make that case for. 15 Has that voter ever gone anywhere from their 16 home -- anywhere near a DPS office, in between 17 elections or before an election? Because you only 18 have to do it once. So you'd have to give me the 19 specifics of a given person. 20 And as I've said earlier, to my knowledge we 21 haven't had any complaints from people who live in 22 these counties that don't have DPS -- to my knowledge 23 we haven't had any complaints of people saying, "Yeah, 24 gosh, I just never ever got by DPS to get a photo ID." 25 It's just -- and I've never heard any -- I've</p>	<p style="text-align: right;">116</p> <p>1 a Democrat, come back and say, you know, this -- "Dan, 2 this really didn't work out; you know, we need 3 to -- or we need to fix something, you know, we need 4 to make a change in the bill." 5 And we -- and, look, we've already had a 6 session in 2013 and I don't -- I stand to be 7 corrected, you can check the records. 8 I don't think one Democrat -- and every 9 Democrat voted against it. I don't think one Democrat 10 tried to amend this bill in any way or update it in 11 the last session. They may have, but I don't remember 12 it. 13 Q. Would there have been any likelihood that a 14 repeal of this bill could pass? 15 A. Not a repeal. I said to fix it. In other 16 words, if there's a problem, if you came to me and 17 said, "Dan, you know, this is a problem in my district 18 and I know the bill's not going to be repealed 19 and -- you know, but can we fix this? Can we try 20 to?" 21 I do not know of one Democrat senator who 22 came to me or made it an issue. I don't remember one 23 article. I don't -- I just -- but I think that's 24 because I don't think the Democrats are getting much 25 pushback in their district or questions.</p>

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<p style="text-align: right;">117</p> <p>1 Q. But that's just your assumption, you haven't</p> <p>2 actively sought out that information?</p> <p>3 MS. DONNELLY: Objection.</p> <p>4 Argumentative.</p> <p>5 A. Well, what I'm saying to you is not an</p> <p>6 assumption. Well, it's -- yeah, I don't know if</p> <p>7 anyone has complained to the -- what -- what I do -- I</p> <p>8 do not recall. Maybe someone said something to me in</p> <p>9 passing or something or at lunch, but I do not recall</p> <p>10 any Democrat senator or Republican senator saying that</p> <p>11 we need to go back and tweak this, in any way, shape,</p> <p>12 or form.</p> <p>13 And I don't know that any -- maybe a bill was</p> <p>14 filed to do so. I -- you know, I don't know. But</p> <p>15 there was no -- maybe there was a bill filed to repeal</p> <p>16 it because sometimes people will just file bills to,</p> <p>17 you know, file a bill. But in terms of a serious</p> <p>18 change, I'm not aware of the Democrats coming to us</p> <p>19 with any serious change.</p> <p>20 And, again, being chair of education where I</p> <p>21 really do have my arms around what happens, the best</p> <p>22 example I can give you is several years ago we voted</p> <p>23 for a number of standard state tests to graduate from</p> <p>24 high school.</p> <p>25 We had enough negative feedback from enough</p>	<p style="text-align: right;">119</p> <p>1 A. I don't -- I have not followed the legal</p> <p>2 wranglings of this legislation since then.</p> <p>3 Q. So that -- you've talked about, it's only had</p> <p>4 good effects. But you're not aware, at all, of what</p> <p>5 the D.C. District Court held or its reasoning why?</p> <p>6 A. I respect the courts, but I'm more</p> <p>7 con- -- quite frankly, more concerned with my</p> <p>8 constituents and the people of Texas, say, or even my</p> <p>9 fellow colleagues on the floor; and that's what I was</p> <p>10 base -- basing my statement, that so far everybody</p> <p>11 seems to be happy and there aren't very many</p> <p>12 complaints, or none that I'm aware of.</p> <p>13 Q. So you're not aware that the D.C. court found</p> <p>14 that, for example, the poverty rate in Texas is 25</p> <p>15 percent for Hispanics, 23 percent for</p> <p>16 African-Americans, as compared to just 8 percent for</p> <p>17 whites; and that that means, quote, "the burdens of</p> <p>18 obtaining an EIC will almost certainly fall more</p> <p>19 heavily on minorities"?</p> <p>20 A. I'm not aware of that.</p> <p>21 Q. So because you weren't aware of that, you</p> <p>22 couldn't consider whether that court finding was</p> <p>23 something that might cause you to want to take</p> <p>24 legislative action?</p> <p>25 MR. CLAY: Objection. Form.</p>
<p style="text-align: right;">118</p> <p>1 parents and enough teachers and enough</p> <p>2 superintendents, that collectively we went back and</p> <p>3 changed the number of state tests. We reduced them</p> <p>4 from 15 to 5 last session.</p> <p>5 So what I'm suggesting to you is, when we</p> <p>6 pass major legislation -- and, again, every bill's</p> <p>7 important -- the legislation impacts a large number of</p> <p>8 people, that it is not uncommon for senators to go</p> <p>9 back in another session or two sessions and say, "You</p> <p>10 know what, we can improve it; we can make it better."</p> <p>11 And so all I'm saying to you is, that in 2013</p> <p>12 I'm not aware of anyone coming to us or -- or the</p> <p>13 Democrat caucus, or a group of senators coming and</p> <p>14 saying, "Look, this is the law, and we have to live</p> <p>15 with the law." That's out of the lawsuit. But -- but</p> <p>16 would -- "Would you-all work with us and change this?"</p> <p>17 I'm just not aware of it.</p> <p>18 Q. (BY MS. BALDWIN) There was some negative</p> <p>19 feedback after SB 14 was passed, in the form of the</p> <p>20 opinion of the three-judge court and the Section 5</p> <p>21 litigation. Did you read the opinion in that case?</p> <p>22 A. Sorry, no. I -- I don't -- I don't follow.</p> <p>23 Q. Are you aware that that court found that</p> <p>24 SB 14 would have a retrogressive, a negative impact,</p> <p>25 on minority voters?</p>	<p style="text-align: right;">120</p> <p>1 A. Well, it apparently hasn't motivated any</p> <p>2 Democrats to want to take, say, "legislative action",</p> <p>3 that I'm aware of.</p> <p>4 Q. (BY MS. BALDWIN) But it hasn't motivated any</p> <p>5 supporters of SB 14, as far as you're aware?</p> <p>6 A. I'm not aware.</p> <p>7 Q. Were you surprised by the D.C. court ruling?</p> <p>8 A. Sitting here today, I couldn't even tell you</p> <p>9 what the D.C. court ruling was.</p> <p>10 Q. And just to confirm then: While SB 14 was</p> <p>11 pending, you didn't conduct an analysis of the impact</p> <p>12 of the bill on minority voters, as far as you recall?</p> <p>13 A. I think I've answered that multiple times;</p> <p>14 but either, I don't recall something specifically</p> <p>15 in -- or I considered it and moved forward and voted</p> <p>16 for the bill. I -- I just don't recall.</p> <p>17 Q. Okay. And you're not aware of any of the</p> <p>18 supporters of SB 14 conducting an analysis of the</p> <p>19 impact of SB 14 on minority voters?</p> <p>20 A. I'm not aware what other senators do or do</p> <p>21 not do.</p> <p>22 Q. I'd like to talk about the amendments that</p> <p>23 were offered to SB 14 during the consideration of the</p> <p>24 bill.</p> <p>25 MS. DONNELLY: Counsel, are you about to</p>

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<p style="text-align: right;">121</p> <p>1 move to a new area?</p> <p>2 MS. BALDWIN: Sure.</p> <p>3 MS. DONNELLY: It's ten after 12:00.</p> <p>4 I'm wondering if we could take just a brief lunch</p> <p>5 break.</p> <p>6 MS. BALDWIN: That's fine.</p> <p>7 (Lunch break.)</p> <p>8 Q. (BY MS. BALDWIN) Going back on the record,</p> <p>9 I'd like to talk about some of the amendments that</p> <p>10 were considered with respect to SB 14 and --</p> <p>11 MS. BALDWIN: Have we already marked</p> <p>12 those or not yet?</p> <p>13 MS. DONNELLY: SB 14 is 4.</p> <p>14 MS. BALDWIN: But the --</p> <p>15 THE WITNESS: I haven't seen the</p> <p>16 amendments, I don't think.</p> <p>17 Q. (BY MS. BALDWIN) Okay. Great. So I'm going</p> <p>18 to hand you a document to be marked Exhibit 5.</p> <p>19 (Patrick Exhibit 5 marked/introduced.)</p> <p>20 Q. (BY MS. BALDWIN) And, Senator Patrick, do you</p> <p>21 see that this is a Senate Journal from January 26,</p> <p>22 2011?</p> <p>23 A. Yes, ma'am.</p> <p>24 Q. Okay. Could you turn to page 133 of this</p> <p>25 document?</p>	<p style="text-align: right;">123</p> <p>1 And so I thought about that and I looked at</p> <p>2 the Indiana law, as I recall, at the time, and they</p> <p>3 had made an exception for that, and I also -- as I</p> <p>4 said earlier, we try and write things that will -- you</p> <p>5 know, will stand up in court.</p> <p>6 And so my only function is, you know, my</p> <p>7 amendment. But looking at the bill, and I saw what</p> <p>8 Indiana -- and I believe at the time Indiana had</p> <p>9 been -- I guess it didn't have to be approved because</p> <p>10 they weren't under Section 5, but -- so based on the</p> <p>11 Indiana model and based on thinking about that issue,</p> <p>12 I offered that amendment.</p> <p>13 Q. So you were concerned that for some people</p> <p>14 getting to a DPS office to get an alternative form of</p> <p>15 ID would be difficult?</p> <p>16 A. If they were severely disabled, I was</p> <p>17 concerned.</p> <p>18 Q. And why only severely disabled? What was</p> <p>19 particular about that group of voters?</p> <p>20 A. Well, because they -- they -- they might be a</p> <p>21 voter who, if they were severely disabled, never</p> <p>22 served in the military, so they wouldn't have a</p> <p>23 military ID.</p> <p>24 If they were severely disabled -- and they</p> <p>25 had to have doc- -- a letter from a doctor. I forget</p>
<p style="text-align: right;">122</p> <p>1 A. I'm there.</p> <p>2 Q. Okay. And Floor Amendment No. 35, is this an</p> <p>3 amendment that you sponsored?</p> <p>4 A. I believe it is. I was the -- I believe I</p> <p>5 was the author of it.</p> <p>6 Q. Okay. And what's the subject of this</p> <p>7 amendment?</p> <p>8 A. The subject of the amendment, as I</p> <p>9 recall -- I'd have to read it specifically here.</p> <p>10 Q. Feel free, if you'd like to take a moment.</p> <p>11 A. Yeah, let me read it. Yeah, let me just read</p> <p>12 it. I know what the goal was, but let me see</p> <p>13 specifically.</p> <p>14 Okay. It was to acknowledge that some people</p> <p>15 with disabilities who lived in rural areas wanted to</p> <p>16 be sure that they did -- that they were able to vote.</p> <p>17 And I remember one conversation. I do</p> <p>18 remember that someone came to me from the disabled</p> <p>19 community and said, "Dan, a lot of people who are</p> <p>20 disabled, who depend on someone to get them somewhere,</p> <p>21 can get someone to drive them to the...", they can</p> <p>22 vote by mail if they'd like, but they want to vote in</p> <p>23 person. And so they can get someone to drive them to</p> <p>24 the poll, but they might not be able to get someone to</p> <p>25 drive them, you know, 30, 40 miles.</p>	<p style="text-align: right;">124</p> <p>1 how we defined it at the time. They had to have a</p> <p>2 letter that they were severely disabled.</p> <p>3 They may not have a CHL because maybe they</p> <p>4 just wouldn't need to carry a gun anywhere because</p> <p>5 they're kind of immobile.</p> <p>6 And a third reason, if, you know,</p> <p>7 they're -- they still may want to be independent and</p> <p>8 want to be able to vote in person. And so it made</p> <p>9 sense to me, it seemed like the right thing to do.</p> <p>10 Q. Did you consider including a separate</p> <p>11 exemption on the basis of indigency?</p> <p>12 A. I did not.</p> <p>13 Q. Could some of those same considerations that</p> <p>14 make it difficult for a person who's disabled to get</p> <p>15 to DPS also apply to somebody who is poor?</p> <p>16 A. I -- obviously, at the time, I didn't -- I</p> <p>17 didn't consider that at the same level of this. And I</p> <p>18 have -- and I've been on the -- I've been the chairman</p> <p>19 of the charity for children with severe disabilities</p> <p>20 since 1988 and so I work a lot with the disabled</p> <p>21 community and -- and some -- there is a -- there is a</p> <p>22 difference from being poor and being totally disabled.</p> <p>23 Q. But regardless of whether the burdens are the</p> <p>24 same, could there be similar burdens that could apply</p> <p>25 to the poor?</p>

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<p style="text-align: right;">125</p> <p>1 MS. DONNELLY: Objection. Form.</p> <p>2 A. You know, I can't speculate on that. I</p> <p>3 just -- you know, as I've said multiple times today, I</p> <p>4 believe that it was not an undue burden to ask people</p> <p>5 to have a photo voter ID in the world that we live in</p> <p>6 today in order to vote.</p> <p>7 But with someone who was severely disabled,</p> <p>8 who -- especially if they've been disabled their whole</p> <p>9 life, may have never driven a car, and so that would</p> <p>10 knock them out of a driver's license and military --</p> <p>11 it just seemed to me to be -- and I looked at --</p> <p>12 again, I looked at the Indiana law and they had</p> <p>13 obviously thought through it as well, and I thought it</p> <p>14 made sense.</p> <p>15 Q. (BY MS. BALDWIN) This amendment also included</p> <p>16 an exemption for showing ID for voters over 70 years</p> <p>17 of age; is that right?</p> <p>18 A. Let me look at it here.</p> <p>19 Q. In subsection (h)(1).</p> <p>20 A. Yes. Yes. I'm looking at this.</p> <p>21 Yes. As I'm reading it, I mean, the document</p> <p>22 speaks for itself. "The requirements for</p> <p>23 identification...do not apply..." Yeah.</p> <p>24 And, you know, to be very candid with you, I</p> <p>25 don't remember that part of the amendment. That -- I</p>	<p style="text-align: right;">127</p> <p>1 just don't -- you know, I honestly don't remember the</p> <p>2 circumstances of that. I just don't -- I don't</p> <p>3 remember.</p> <p>4 Q. And you're not aware of the racial</p> <p>5 demographics of voters 70 years of age or older --</p> <p>6 A. No --</p> <p>7 Q. -- in Texas?</p> <p>8 A. -- I'm not.</p> <p>9 Q. Other than the individual you mentioned from</p> <p>10 the organization for the disabled, did you talk to</p> <p>11 anybody else in deciding to introduce this amendment?</p> <p>12 A. I don't recall. I'm sure -- I'm positive I</p> <p>13 would have had a conversation with Senator Fraser, as</p> <p>14 the author of the bill.</p> <p>15 Q. Were you concerned that without such an</p> <p>16 amendment the bill would not pass constitutional</p> <p>17 muster?</p> <p>18 A. I -- as I recall, I do recall thinking that.</p> <p>19 And I don't remember -- I don't remember the</p> <p>20 circumstances or the -- the specifics of it.</p> <p>21 But it seemed to me there was some discussion</p> <p>22 that the -- would the Indiana -- well, I'm not asking</p> <p>23 you questions. I don't know if the Indiana law</p> <p>24 was -- it ever went to the courts or not.</p> <p>25 But it was -- seemed to be something along</p>
<p style="text-align: right;">126</p> <p>1 was so focused on the disabled. But I don't -- I</p> <p>2 don't remember that part of it. But, obviously, it</p> <p>3 speaks for itself.</p> <p>4 Q. So you don't recall why you included age in</p> <p>5 this?</p> <p>6 A. No. I don't know if -- it may have been</p> <p>7 another member who asked me would -- would I add it.</p> <p>8 I wonder if it was amended on the floor, a</p> <p>9 floor amendment? It doesn't look that way. I -- you</p> <p>10 know, I just -- I don't recall the circumstances of</p> <p>11 it.</p> <p>12 Q. So voters who are 70 years of age or older</p> <p>13 already would have been able to vote by mail?</p> <p>14 A. Yes.</p> <p>15 Q. But did you think it was important that they</p> <p>16 still have the same opportunity to vote in person --</p> <p>17 A. Well, I always --</p> <p>18 Q. -- even if they didn't have an ID?</p> <p>19 A. -- I always think everyone -- I think</p> <p>20 everyone should have the opportunity to vote, however</p> <p>21 they want to vote, you know.</p> <p>22 More and more -- more and more seniors are</p> <p>23 voting by mail as every election goes by. More and</p> <p>24 more people vote early as every election goes by,</p> <p>25 and -- but some people like to vote in person. I</p>	<p style="text-align: right;">128</p> <p>1 the lines of, the Indiana law was viewed as -- as the</p> <p>2 courts upheld it, or I don't know if it was</p> <p>3 challenged. Again, I know it wasn't under</p> <p>4 preclearance.</p> <p>5 But for some reason, I had the belief that</p> <p>6 the Indiana law passed muster with the courts and they</p> <p>7 had had that included. So that was probably a part of</p> <p>8 the discussion.</p> <p>9 Q. So was this your idea to include this, or did</p> <p>10 someone suggest to you that this amendment would be</p> <p>11 helpful?</p> <p>12 A. I can't say for certain. I think it was</p> <p>13 more -- I do, in my recollection. And I could be</p> <p>14 wrong. Senator Fraser may have a different</p> <p>15 recollection, so...</p> <p>16 MS. DONNELLY: And if you're about to go</p> <p>17 into communications that Senator Fraser made to you,</p> <p>18 please do not.</p> <p>19 THE WITNESS: Yeah.</p> <p>20 A. So I won't -- I just remember going to him</p> <p>21 and saying, "I'll offer this amendment." But I don't</p> <p>22 remember the circumstances of it.</p> <p>23 But, again, because of my 25-year history of</p> <p>24 working with the disabled, it may have been someone</p> <p>25 came to me and said, "Dan, you know, you have a...",</p>

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<p style="text-align: right;">129</p> <p>1 and the senators are well aware of that because we've</p> <p>2 done certain things on the floor with the disabled</p> <p>3 community that I've been involved with.</p> <p>4 So it may have been brought to me. I may</p> <p>5 have, you know, created it. I'm not sure. But I</p> <p>6 ended up offering it.</p> <p>7 Q. (BY MS. BALDWIN) Were you concerned that for</p> <p>8 disabled voters or for voters over age 70 that it</p> <p>9 would be more difficult for them to have access to the</p> <p>10 underlying documents that they would need in order to</p> <p>11 get an EIC?</p> <p>12 A. Again, I do not recall the circumstances of</p> <p>13 the 70s -- of the 70-year-old or older.</p> <p>14 And I think I've answered the other question</p> <p>15 that I -- of the severely disabled who -- who lived in</p> <p>16 a rural area of Texas. That was my main focus.</p> <p>17 Q. Okay. I just wanted to distinguish the</p> <p>18 travel to DPS. I understand, from your statements</p> <p>19 about the rural area.</p> <p>20 But did you have any separate concern about,</p> <p>21 for some voters, such as the disabled, getting the</p> <p>22 underlying documentation that you need to show in</p> <p>23 order to get an EIC? Was that a concern?</p> <p>24 A. I don't recall.</p> <p>25 Q. Were you concerned that absent an amendment</p>	<p style="text-align: right;">131</p> <p>1 required a letter from a doctor.</p> <p>2 Anyone with a handicapped -- plus, which, the</p> <p>3 people who criticized me for it weren't thinking; if</p> <p>4 you have a handicapped parking sticker, you most</p> <p>5 likely have a driver's license.</p> <p>6 Q. (BY MS. BALDWIN) Right. In fact, were you</p> <p>7 called a RINO, a Republican-in-name-only, for this --</p> <p>8 A. I don't know specifically if I was, but I</p> <p>9 wouldn't be shocked, okay?</p> <p>10 Q. Were there any particular organizations that</p> <p>11 had that concern that this was a loophole?</p> <p>12 A. I -- I remember seeing an e-mail yesterday as</p> <p>13 we -- as I said earlier, that we met. And there was,</p> <p>14 I think, an e-mail to me, to -- I don't know if it was</p> <p>15 specifically to Catherine Englebreth or to True the</p> <p>16 Vote. I do -- I hadn't remembered it, but I saw it</p> <p>17 yesterday, so...</p> <p>18 Q. So there were -- True the Vote was one of the</p> <p>19 organizations that was concerned that this was</p> <p>20 creating a loophole?</p> <p>21 A. Well, and it was just their misunderstanding</p> <p>22 of what the amendment did. They -- they weren't</p> <p>23 concerned, I don't believe -- I can't speculate what</p> <p>24 their -- but the main concern was the handicapped</p> <p>25 parking placards.</p>
<p style="text-align: right;">130</p> <p>1 like this, that for the voters that it targeted, if</p> <p>2 there weren't these exemptions, that they might not</p> <p>3 vote in Texas elections?</p> <p>4 MR. CLAY: Objection. Form.</p> <p>5 A. Yeah, I -- you know, the only thing I recall</p> <p>6 is -- is something to do with Indiana law; but I</p> <p>7 believe I'm correct that it was in their law. And</p> <p>8 that, being someone who is pretty aware of the</p> <p>9 disabled community, that it just seemed to register</p> <p>10 with me as being the right thing to do.</p> <p>11 And -- and I took some criticism from the</p> <p>12 grassroots for it, because they mistakenly thought I</p> <p>13 was creating a loophole for anyone who had a disabled,</p> <p>14 handicapped placard to park; which, we have, as I</p> <p>15 recall, about a half million of those. I don't know</p> <p>16 if it's in the state or -- it would in the state. It</p> <p>17 wouldn't be in the county. But a half million, in the</p> <p>18 state.</p> <p>19 And someone thought -- I got a lot of, you</p> <p>20 know, some criticism from some folks that said, "Dan,</p> <p>21 why did you do this? You just opened up a loophole."</p> <p>22 Because, it's believed in Texas it's fairly</p> <p>23 easy to get a handicapped placard, and that people</p> <p>24 would just use that as a chance to vote. And I -- and</p> <p>25 I had to assure them that, no, it didn't, because it</p>	<p style="text-align: right;">132</p> <p>1 Q. Would you say that True to Vote, in general,</p> <p>2 favored having a strict ID requirement?</p> <p>3 MS. DONNELLY: Objection. Form.</p> <p>4 A. I don't ever recall ever having any</p> <p>5 discussions with them, what they favored or didn't</p> <p>6 favor, so...</p> <p>7 Q. (BY MS. BALDWIN) I'd like to ask about</p> <p>8 another amendment that you sponsored. If you could</p> <p>9 turn to page 123 of the Senate Journal from January</p> <p>10 26th.</p> <p>11 A. Okay.</p> <p>12 Q. And Floor Amendment 18, is this an amendment</p> <p>13 that you sponsored?</p> <p>14 A. I was the co-author of it with Senator</p> <p>15 Hinojosa.</p> <p>16 Q. Okay. And what was the purpose of this</p> <p>17 amendment?</p> <p>18 A. It just included -- it gave one more item,</p> <p>19 because we had -- we had somewhere in the</p> <p>20 neighborhood, back then, 3 or 400,000 -- I shouldn't</p> <p>21 speculate -- but hundreds of thousands of people with</p> <p>22 CHLs, and -- and Senator Hinojosa, who is a person who</p> <p>23 supports CHLs, in -- in my view, and he thought</p> <p>24 that -- I know that he and I talked about it. I just</p> <p>25 don't remember the conversation.</p>

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34 (Pages 133 to 136)

<p style="text-align: right;">133</p> <p>1 But he was supportive of it, and so he</p> <p>2 carried it just to give one more, because we knew that</p> <p>3 those people that had a CHL had been -- not that you</p> <p>4 need a background check for one; but we knew that was</p> <p>5 an authentic, you know, government document.</p> <p>6 Q. Okay. Did you look up whether there were any</p> <p>7 other forms of Texas ID that would have met that same</p> <p>8 standard?</p> <p>9 A. Yeah, I don't recall that I did, but...</p> <p>10 Q. Did Senator Hinojosa approach you or did you</p> <p>11 approach him?</p> <p>12 A. I don't really recall.</p> <p>13 Q. So you testified you were aware at the time</p> <p>14 of approximately the number of CHL holders?</p> <p>15 A. Yeah. And I shouldn't -- I really shouldn't</p> <p>16 have gone down that trail to speculate. It just seems</p> <p>17 to me that there were hundreds of thousands, and</p> <p>18 I -- that may be something I just read somewhere. I</p> <p>19 don't recall that that was part of the decision. But</p> <p>20 it's a significant number.</p> <p>21 Q. But you weren't aware if whether there are</p> <p>22 any other forms of state ID that are held by a</p> <p>23 significant number of Texans that weren't included in</p> <p>24 SB 14?</p> <p>25 A. No.</p>	<p style="text-align: right;">135</p> <p>1 Did you say on the race?</p> <p>2 Q. Yes.</p> <p>3 A. I'm sorry. No, I definitely would not have</p> <p>4 asked that.</p> <p>5 Q. I'd like to talk about some other amendments,</p> <p>6 ones that you didn't sponsor.</p> <p>7 A. Okay.</p> <p>8 Q. If we could take a look on page 118 of the</p> <p>9 journal, from January 26th, at Floor Amendment No. 12.</p> <p>10 A. Okay.</p> <p>11 Q. If you could take a moment to look at this,</p> <p>12 and tell me when you're ready.</p> <p>13 A. No, 12.</p> <p>14 Yes. Okay.</p> <p>15 Q. This amendment would have provided that the</p> <p>16 underlying documentation that you need to obtain a</p> <p>17 state form of SB 14 photo ID would be provided free;</p> <p>18 is that correct?</p> <p>19 A. Yes.</p> <p>20 Q. And would this amendment have interfered with</p> <p>21 the effectiveness of the purpose of SB 14?</p> <p>22 A. I can't speak to that.</p> <p>23 Q. Sitting here today, do you have an opinion on</p> <p>24 that?</p> <p>25 A. I'd have to think through it. I'm not</p>
<p style="text-align: right;">134</p> <p>1 Q. You have no recollection of ever seeking out</p> <p>2 that information?</p> <p>3 A. No.</p> <p>4 Q. This amendment wasn't intended to help</p> <p>5 minority voters, was it?</p> <p>6 MS. DONNELLY: Objection. Form.</p> <p>7 A. You know, I don't -- I don't recall what the</p> <p>8 intention was, but there are minority voters that have</p> <p>9 CHLs. I mean, the thought that only Anglos have CHLs</p> <p>10 would, I think, be incorrect. So obviously -- and</p> <p>11 Senator Hinojosa, you know, was one of the authors of</p> <p>12 the amendment, so he obviously thought so.</p> <p>13 Q. (BY MS. BALDWIN) Sure. But you don't have</p> <p>14 any information suggesting that CHL holders are</p> <p>15 disproportionately minority, do you?</p> <p>16 A. I don't know.</p> <p>17 Q. Do you have any information suggesting that</p> <p>18 they're disproportionately Anglo?</p> <p>19 A. I do not.</p> <p>20 Q. Did you have a belief at the time, one way or</p> <p>21 the other?</p> <p>22 A. No.</p> <p>23 Q. Did you ask DPS for any information on the</p> <p>24 race of CHL holders?</p> <p>25 A. I may have. I don't recall.</p>	<p style="text-align: right;">136</p> <p>1 prepared to give you an answer quickly.</p> <p>2 Q. Receiving a free birth certificate wouldn't</p> <p>3 harm the ability of the state of Texas to verify a</p> <p>4 voter's identity in any way that you can think of,</p> <p>5 would it?</p> <p>6 A. I don't know that that's the -- I don't know</p> <p>7 that that may have been the issue. The issue may have</p> <p>8 been there's a cost to produce a document, and, you</p> <p>9 know, if there was a reasonable low cost for someone</p> <p>10 to -- you know, to do that. And I don't know if</p> <p>11 that's changed since then or not. But at the time, I</p> <p>12 think that was the view.</p> <p>13 Q. So this amendment was tabled; is that</p> <p>14 correct?</p> <p>15 A. Correct.</p> <p>16 Q. And just to make sure that I understand,</p> <p>17 tabling means it doesn't go forward, it kills the</p> <p>18 amendment?</p> <p>19 A. Correct.</p> <p>20 Q. And was this amendment tabled on a party line</p> <p>21 vote?</p> <p>22 A. Yes.</p> <p>23 Q. And you voted against this -- you voted to</p> <p>24 table, correct?</p> <p>25 A. Correct.</p>

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35 (Pages 137 to 140)

<p style="text-align: right;">137</p> <p>1 Q. And do you recall why you voted to table?</p> <p>2 A. I do not.</p> <p>3 Q. This amendment would have placed the cost of</p> <p>4 obtaining documents on the state rather than the</p> <p>5 voters; is that right?</p> <p>6 A. Yes.</p> <p>7 Q. And did you oppose that concept?</p> <p>8 A. Well, I think by -- I think my record speaks</p> <p>9 for itself.</p> <p>10 Q. So you wanted the cost imposed on voters?</p> <p>11 A. Yes, if it was a reasonable cost.</p> <p>12 Q. Well, whatever the costs were at the time</p> <p>13 were the costs that were going to be imposed on voters</p> <p>14 as a consequence of tabling this amendment; is that</p> <p>15 correct?</p> <p>16 A. Not on voters, but people who were seeking --</p> <p>17 I mean, it could have been a voter; it may not have</p> <p>18 been a voter, but anyone seeking to get a birth</p> <p>19 certificate or an ID.</p> <p>20 Q. Take a look at Floor Amendment No. 13, from</p> <p>21 January 26, on page 119.</p> <p>22 A. Yes, ma'am.</p> <p>23 Q. Was the purpose of this amendment to allow</p> <p>24 the use of expired photo IDs?</p> <p>25 MS. DONNELLY: Did you get a chance to</p>	<p style="text-align: right;">139</p> <p>1 THE WITNESS: Good catch, Jay.</p> <p>2 A. Well, we're looking for Section 63.0101.</p> <p>3 Q. (BY MS. BALDWIN) Which is Section 14 of the</p> <p>4 past bill, and the underlined language "that" --</p> <p>5 A. Okay. There it is. Okay.</p> <p>6 Q. -- "that has not" immediately precedes the</p> <p>7 word "expired."</p> <p>8 A. Okay. Okay.</p> <p>9 Q. So does it appear to you that this amendment,</p> <p>10 by switching the language "that has not" or</p> <p>11 "regardless of whether it has," the purpose of this</p> <p>12 was to allow for the use of IDs even when they have</p> <p>13 expired?</p> <p>14 A. Yes.</p> <p>15 Q. And this amendment was tabled; is that</p> <p>16 correct?</p> <p>17 A. Correct.</p> <p>18 Q. And, again, that was on a party line vote,</p> <p>19 correct?</p> <p>20 A. Correct.</p> <p>21 Q. And you voted in favor of tabling?</p> <p>22 A. Correct.</p> <p>23 Q. And why did you vote in favor of tabling?</p> <p>24 A. You know, I don't recall. But as I did share</p> <p>25 with you earlier, when we were talking about SB 362,</p>
<p style="text-align: right;">138</p> <p>1 review it?</p> <p>2 THE WITNESS: Yeah, I'm just looking at</p> <p>3 it now.</p> <p>4 A. But I'd have to go back and look at that</p> <p>5 section of the bill to see what it's talking about.</p> <p>6 It says: "In SECTION 12 of the bill...strike</p> <p>7 'that has not' and substitute, 'regardless of whether</p> <p>8 it has.'" I don't know what it's referring to by just</p> <p>9 reading the amendment.</p> <p>10 Q. (BY MS. BALDWIN) Okay. Well, would you like</p> <p>11 to take a moment and line it up with...</p> <p>12 A. Section 12.</p> <p>13 MR. DYER: Can I point something out? I</p> <p>14 think that Senate Bill 14 that you have is the past</p> <p>15 version. This would have been amending the version</p> <p>16 that hit the Senate floor, so it may not sync up</p> <p>17 section to section. I don't know if it does or not.</p> <p>18 I just want to -- if it doesn't, that may be why.</p> <p>19 A. Can you tell me, do you know what it referred</p> <p>20 to?</p> <p>21 Q. (BY MS. BALDWIN) My understanding is that</p> <p>22 this is allowing the use of expired IDs.</p> <p>23 A. Section 10, Section 11, Section 12. Okay.</p> <p>24 Yeah, it doesn't. I don't think it lines --</p> <p>25 Q. Yeah, it doesn't line up, you're right.</p>	<p style="text-align: right;">140</p> <p>1 that that was my position, that I felt they should be</p> <p>2 valid, you know. As it turned out in this bill, we</p> <p>3 did allow 60 days after expiration anyway, if I'm</p> <p>4 reading -- if I am remembering and reading this</p> <p>5 correctly. Does it not say that?</p> <p>6 Q. Yes.</p> <p>7 A. Okay.</p> <p>8 Q. And --</p> <p>9 A. So I'm not -- I'm not so sure this</p> <p>10 amendment -- I'm not sure what -- exactly what this</p> <p>11 amendment -- it says "regardless of whether it has."</p> <p>12 Q. Would this amendment have allowed for the use</p> <p>13 of indefinitely expired IDs?</p> <p>14 A. That's probably how I would have read that.</p> <p>15 Q. And would that have interfered with the</p> <p>16 effectiveness of SB 14?</p> <p>17 A. As I spoke earlier, I believe we should have</p> <p>18 a valid -- you should have a valid current. So it's</p> <p>19 just my belief.</p> <p>20 Q. But you can't say, one way or another,</p> <p>21 whether that would interfere with the effectiveness of</p> <p>22 the bill?</p> <p>23 A. No.</p> <p>24 Q. If you could turn to Floor Amendment No. 16,</p> <p>25 on page 121.</p>

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36 (Pages 141 to 144)

<p style="text-align: right;">141</p> <p>1 A. Okay.</p> <p>2 Q. And take a moment to review the substance,</p> <p>3 and just let me know when you're ready.</p> <p>4 A. Okay.</p> <p>5 Q. This amendment would have allowed for the use</p> <p>6 of the same nonphoto IDs that were included in SB 362;</p> <p>7 is that right?</p> <p>8 A. I'd have to go back and compare. Is it</p> <p>9 exactly the same? I don't know that that's the case,</p> <p>10 but you'd have to...</p> <p>11 Q. But it does include, even just looking at it,</p> <p>12 11 forms of nonphoto ID?</p> <p>13 A. Yes.</p> <p>14 Q. And this amendment also would have allowed</p> <p>15 for DPS IDs to be expired for up to two years; is that</p> <p>16 correct?</p> <p>17 A. Yes.</p> <p>18 Q. And that provision is the same as was in</p> <p>19 SB 362, right?</p> <p>20 A. I don't recall. Is that what -- if that's</p> <p>21 what the document says. I don't remember 362 allowing</p> <p>22 you to vote with a library card.</p> <p>23 Q. Would you like to look at, if, in fact --</p> <p>24 A. I mean, I don't know if it did or not.</p> <p>25 Q. That was included.</p>	<p style="text-align: right;">143</p> <p>1 A. Yes.</p> <p>2 Q. And if I understand your testimony</p> <p>3 previously, you think that allowing any form of</p> <p>4 nonphoto identification would have lessened the</p> <p>5 effectiveness of the bill?</p> <p>6 A. Yes.</p> <p>7 Q. And so you voted to table this amendment?</p> <p>8 A. Yes.</p> <p>9 Q. And this amendment was also tabled on a party</p> <p>10 line vote?</p> <p>11 A. Yes.</p> <p>12 Q. Take a look with me at Floor Amendment No.</p> <p>13 24.</p> <p>14 A. What page is that?</p> <p>15 Q. That is on page 126.</p> <p>16 A. Got it.</p> <p>17 Q. And please let me know when you're ready.</p> <p>18 A. Okay. (Reviewing.) Okay.</p> <p>19 Q. This amendment would have allowed individual</p> <p>20 counties to decide whether to issue voter registration</p> <p>21 certificates with a voter's photo; isn't that correct?</p> <p>22 A. Yes.</p> <p>23 Q. This amendment was also tabled on a party</p> <p>24 line vote, correct?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">142</p> <p>1 A. It was?</p> <p>2 Q. Yes.</p> <p>3 And this amendment was also tabled on a party</p> <p>4 line vote; is that correct?</p> <p>5 A. Correct.</p> <p>6 Q. And you voted in favor of tabling?</p> <p>7 A. Correct.</p> <p>8 Q. And do you believe that this amendment would</p> <p>9 have, had it passed, interfered with the effectiveness</p> <p>10 of SB 14?</p> <p>11 A. Yes.</p> <p>12 Q. And why so?</p> <p>13 A. Because you would have been able to vote</p> <p>14 without a photo ID.</p> <p>15 Q. And could you take a look at Floor Amendment</p> <p>16 20, please, Senator Patrick, which is at the bottom of</p> <p>17 page 123.</p> <p>18 A. Okay.</p> <p>19 Q. Is this essentially a more narrow version of</p> <p>20 the prior amendment in that it allows two specified</p> <p>21 forms of nonphoto identification?</p> <p>22 A. Yes.</p> <p>23 Q. And those are a Medicare identification card</p> <p>24 and then a Social Security card accompanied by a voter</p> <p>25 registration certificate?</p>	<p style="text-align: right;">144</p> <p>1 Q. Why wouldn't it have been a good idea to let</p> <p>2 individual counties decide whether or not to issue</p> <p>3 photo voter registration cards?</p> <p>4 A. I don't recall.</p> <p>5 Q. Would this amendment have interfered with the</p> <p>6 effectiveness of SB 14?</p> <p>7 A. I don't know, because I don't recall</p> <p>8 the -- the specifics of the debate.</p> <p>9 Q. Would this amendment have been helpful, given</p> <p>10 that, in alleviating the travel burdens that you</p> <p>11 identified -- at least with respect to disabled</p> <p>12 voters, and that there aren't DPS offices in every</p> <p>13 county -- so through this amendment you would have had</p> <p>14 a place in every county in Texas, if the county</p> <p>15 wanted, they would have had the option to provide</p> <p>16 photo ID?</p> <p>17 A. I don't know.</p> <p>18 Q. Well, a county can't unilaterally decide to</p> <p>19 open a DPS office, can it?</p> <p>20 A. No.</p> <p>21 Q. But under this amendment, a county would have</p> <p>22 been able to decide to offer its voters a photo ID?</p> <p>23 A. Under this amendment, I think so.</p> <p>24 Q. And sitting here today, you don't recall why</p> <p>25 you opposed this?</p>

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<p style="text-align: right;">145</p> <p>1 A. I do not.</p> <p>2 Q. If you could take a look at Amendment No. 29,</p> <p>3 on page 129.</p> <p>4 A. All right.</p> <p>5 Q. This is an amendment that would have expanded</p> <p>6 DPS's operating hours to at least some evening and</p> <p>7 weekend hours; is that correct?</p> <p>8 A. Yes.</p> <p>9 Q. And this amendment was also tabled on a party</p> <p>10 line vote; is that correct?</p> <p>11 A. Yes.</p> <p>12 Q. So you voted against this amendment, correct?</p> <p>13 A. Yes.</p> <p>14 Q. And would this amendment have interfered with</p> <p>15 the effectiveness of SB 14's stated purpose?</p> <p>16 A. I can't respond because I -- I don't know</p> <p>17 based on sitting here looking at this today. There</p> <p>18 obviously was some discussion by Senator Ellis and may</p> <p>19 have been some discussion by someone who opposed it.</p> <p>20 Don't know.</p> <p>21 Q. Would this amendment have made it less</p> <p>22 burdensome for voters without a photo ID who work</p> <p>23 hourly jobs to get to a DPS office?</p> <p>24 MR. CLAY: Objection. Form.</p> <p>25 Foundation.</p>	<p style="text-align: right;">147</p> <p>1 impact on women, elderly voters, minority voters,</p> <p>2 students, or persons with disabilities?</p> <p>3 MS. DONNELLY: Objection. Form.</p> <p>4 A. The amendment speaks for itself and I voted</p> <p>5 to table it.</p> <p>6 Q. (BY MS. BALDWIN) And the amendment was tabled</p> <p>7 on a party line vote; is that correct?</p> <p>8 A. Yes.</p> <p>9 Q. Similar to what I asked previously about</p> <p>10 SB 362; in deciding whether to support SB 14, did you</p> <p>11 consider whether the legislation complied with Section</p> <p>12 5 of the Voting Rights Act?</p> <p>13 A. Once again, I think I answered this question.</p> <p>14 My -- without studying Section 5 -- belief is that</p> <p>15 Section 5 simply says we are to be precleared. So my</p> <p>16 goal would be the hope that our bill would be written</p> <p>17 in such a way that would be precleared, so...</p> <p>18 Q. But you surely understood that Section 5</p> <p>19 isn't just a procedural requirement requiring</p> <p>20 preclearance, but that it has substantive standards</p> <p>21 that Texas has to meet, right?</p> <p>22 MS. DONNELLY: Objection. Form.</p> <p>23 A. I'm not a lawyer and nor a student of Section</p> <p>24 5, so...</p> <p>25 Q. (BY MS. BALDWIN) You're a member of the</p>
<p style="text-align: right;">146</p> <p>1 A. I -- I can't speculate on that.</p> <p>2 Q. (BY MS. BALDWIN) You don't think it would be</p> <p>3 helpful for a voter who has a 9:00 to 5:00 job,</p> <p>4 without leave, to have the opportunity to go to DPS on</p> <p>5 the weekend to get an EIC if they needed one?</p> <p>6 MR. CLAY: Same objection.</p> <p>7 MS. DONNELLY: I join it.</p> <p>8 A. I can't speculate on it.</p> <p>9 Q. (BY MS. BALDWIN) The last amendment I'd like</p> <p>10 to talk about is Floor Amendment 30. If you could</p> <p>11 take a moment to look at that.</p> <p>12 A. Okay. (Reviewing.) Okay.</p> <p>13 Q. This amendment would have asked the Secretary</p> <p>14 of State to report on a number of issues related to</p> <p>15 the implementation of SB 14; is that correct?</p> <p>16 A. Yes.</p> <p>17 Q. Did you oppose finding out the number of</p> <p>18 voters, yearly, who voted a provisional ballot because</p> <p>19 they came to the polls without acceptable ID?</p> <p>20 MS. DONNELLY: Objection. Form.</p> <p>21 A. The amendment speaks for itself and I voted</p> <p>22 to table the amendment.</p> <p>23 Q. (BY MS. BALDWIN) And did you oppose</p> <p>24 specifically asking the Secretary of State to find out</p> <p>25 whether the ID requirement was having a disparate</p>	<p style="text-align: right;">148</p> <p>1 Redistricting Committee, correct?</p> <p>2 A. I am.</p> <p>3 Q. And is having an understanding of the</p> <p>4 framework that governed redistricting important?</p> <p>5 A. Having a -- having a general knowledge is</p> <p>6 always -- is always a good idea.</p> <p>7 Q. And is part of that general knowledge that</p> <p>8 the legislation would be reviewed under Section 5 of</p> <p>9 the Voting Rights Act as to whether it had a negative</p> <p>10 or retrogressive effect on the ability of racial</p> <p>11 minorities to participate in the political process?</p> <p>12 A. Would you repeat that?</p> <p>13 THE REPORTER: "And is part of that</p> <p>14 general knowledge that the legislation would be</p> <p>15 reviewed under Section 5 of the Voting Rights Act as</p> <p>16 to whether it had a negative or retrogressive effect</p> <p>17 on the ability of racial minorities to participate in</p> <p>18 the political process?"</p> <p>19 MS. DONNELLY: Can we break that down?</p> <p>20 Q. (BY MS. BALDWIN) Did you understand that</p> <p>21 Section 5 required -- did you understand that for</p> <p>22 legislation to be precleared under Section 5 of the</p> <p>23 Voting Rights Act, the standard it has to meet was</p> <p>24 that racial minorities wouldn't be negatively affected</p> <p>25 compared to the standard that was already in place?</p>

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<p style="text-align: right;">149</p> <p>1 A. Very candidly, I came in here today thinking</p> <p>2 about voter ID, and not redistricting; but you've</p> <p>3 asked me a question and I'll try to answer it. And I</p> <p>4 haven't really thought about that issue either, for</p> <p>5 several years.</p> <p>6 Yes, I think it would be fair to say that</p> <p>7 that was my general understanding.</p> <p>8 Q. And did you understand that that was the</p> <p>9 Section 5 standard that applied to both redistricting</p> <p>10 and to voter ID?</p> <p>11 A. I'm not sure that -- that I knew that or</p> <p>12 connected that or thought about that. I'm not saying</p> <p>13 I didn't, but I just -- I don't recall.</p> <p>14 Q. Did you discuss whether SB 14 would meet the</p> <p>15 requirements of the Voting Rights Act with anyone?</p> <p>16 A. Not that I recall. And -- and I'll qualify</p> <p>17 that. I'm sure it may have been discussed at some</p> <p>18 point, but I don't recall specifically.</p> <p>19 Q. And during the Senate's consideration of</p> <p>20 SB 14, do you recall any testimony regarding whether</p> <p>21 minority voters were less likely to possess acceptable</p> <p>22 photo ID than Anglo voters?</p> <p>23 A. I'm sorry, say that again one more time.</p> <p>24 Q. Sure. During the Senate's consideration of</p> <p>25 SB 14, do you recall any testimony being presented</p>	<p style="text-align: right;">151</p> <p>1 constituents, the majority supported the concept of</p> <p>2 photo voter ID, so I'm not sure why they did not vote</p> <p>3 to reflect the will of their constituents.</p> <p>4 Q. (BY MS. BALDWIN) And it's your judgment that</p> <p>5 you understood the preferences of the constituents of</p> <p>6 every Democratic legislator in the House -- in</p> <p>7 the -- excuse me.</p> <p>8 It's your testimony that you understood the</p> <p>9 preferences of the constituents of every Democratic</p> <p>10 senator better than they did themselves?</p> <p>11 MS. DONNELLY: Objection.</p> <p>12 Argumentative.</p> <p>13 You can answer.</p> <p>14 A. Yeah, I wouldn't pretend that I know another</p> <p>15 senator's district better than I know mine.</p> <p>16 But, again, looking at the polling data and</p> <p>17 the general sense of news reports and opinions on this</p> <p>18 issue, it was clear that -- based on polling data and</p> <p>19 other data -- that a majority, or a significant number</p> <p>20 at least, in some of their districts, supported photo</p> <p>21 voter ID.</p> <p>22 Q. (BY MS. BALDWIN) And, again, just because I</p> <p>23 know we -- I asked this question with regard to SB</p> <p>24 362, but I want to make sure that I've asked it with</p> <p>25 respect to SB 14: You're not aware of any particular</p>
<p style="text-align: right;">150</p> <p>1 regarding whether minority voters were less likely to</p> <p>2 possess acceptable photo ID than Anglo voters?</p> <p>3 A. There may have been testimony, but I don't</p> <p>4 recall it.</p> <p>5 Q. What's your understanding of why, with</p> <p>6 respect to SB 14 specifically, the senators who voted</p> <p>7 against SB 14 were opposed?</p> <p>8 MS. DONNELLY: Objection. Speculative.</p> <p>9 Q. (BY MS. BALDWIN) I'm asking your personal</p> <p>10 understanding.</p> <p>11 A. And I think as I testified earlier, I'm -- I</p> <p>12 really don't understand why they voted against it. I</p> <p>13 always -- I always respect a person's right to vote</p> <p>14 for or against a bill and -- based on their own</p> <p>15 reasoning. Most of the time I don't know that</p> <p>16 reasoning.</p> <p>17 Q. Did you think that any part of the reasoning</p> <p>18 for why those who were opposed to SB 14 were -- had</p> <p>19 any connection to the fact that they represented</p> <p>20 majority minority districts and they were concerned</p> <p>21 about SB 14 having a negative effect on their</p> <p>22 constituents?</p> <p>23 MS. DONNELLY: Objection. Speculative.</p> <p>24 A. Yeah, I really don't know their reasons, as I</p> <p>25 testified, I believe, earlier. I believe their</p>	<p style="text-align: right;">152</p> <p>1 polls that asked Texas voters about the specific forms</p> <p>2 of ID and the specific requirements of SB 14, are you?</p> <p>3 A. It is -- my answer is no. But it would be</p> <p>4 highly unusual. In fact, I can't think of one bill,</p> <p>5 of the thousands that we pass, that is polled while</p> <p>6 it's on the Senate floor being voted on. It's usually</p> <p>7 issues are polled. The specifics of a bill are not at</p> <p>8 the time a bill is being -- as -- as -- at the time of</p> <p>9 the process of passing a bill.</p> <p>10 So I -- I wouldn't think -- I can't think of</p> <p>11 any situation -- maybe there has been one -- but I</p> <p>12 can't think of any situation where the bill is being</p> <p>13 polled while it's being -- while it's going through</p> <p>14 the process.</p> <p>15 MS. BALDWIN: If we could just take</p> <p>16 maybe a brief five-minute break?</p> <p>17 MS. DONNELLY: Sure.</p> <p>18 (Break.)</p> <p>19 (Patrick Exhibit 6 marked/introduced.)</p> <p>20 Q. (BY MS. BALDWIN) Senator Patrick, I'm giving</p> <p>21 you a document that's been marked as Exhibit 6</p> <p>22 and -- which is a document that's been produced in</p> <p>23 this litigation under a "Highly Confidential" label</p> <p>24 and is Bates numbered TX 00010002 to 4.</p> <p>25 A. 4, okay.</p>

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<p style="text-align: right;">161</p> <p>1 their organizations.</p> <p>2 Q. I'd like to ask a question about the last</p> <p>3 paragraph of the --</p> <p>4 A. Okay.</p> <p>5 Q. -- e-mail, where you write: "I believe all</p> <p>6 of the Republicans have co-authored the bill, if not,</p> <p>7 all will vote for it and it will pass along party</p> <p>8 lines 19 to 2."</p> <p>9 MS. DONNELLY: "12."</p> <p>10 MS. BALDWIN: Thank you.</p> <p>11 Q. (BY MS. BALDWIN) "19 to 12."</p> <p>12 MS. BALDWIN: Thank you.</p> <p>13 A. Okay.</p> <p>14 Q. (BY MS. BALDWIN) So is it fair to say that</p> <p>15 even before the bill was called for a vote, you</p> <p>16 expected it to be a party line vote?</p> <p>17 A. Yes.</p> <p>18 Q. And why was that your expectation?</p> <p>19 A. Based on past votes on other bills of similar</p> <p>20 subjects.</p> <p>21 Q. Other than past history, any other reasons?</p> <p>22 A. Well, I think it was just general knowledge</p> <p>23 that the Republicans were in favor of this concept in</p> <p>24 representing the majority of Texans and the Democrat</p> <p>25 voters were -- I mean Democrat senators, were not.</p>	<p style="text-align: right;">163</p> <p>1 But when everyone in the room is in the same</p> <p>2 party, you have to -- and you want your bill and you</p> <p>3 want your bill and he wants his bill and everybody</p> <p>4 wants their own bill; well, not everybody can bring</p> <p>5 their bill to the floor. There's only so much time.</p> <p>6 And so, how do you decide who gets their bill to the</p> <p>7 floor?</p> <p>8 So a little bit of the history of that, I</p> <p>9 think this -- because it's a Senate rule, it's not in</p> <p>10 the Constitution, it's voted on by senators.</p> <p>11 So the Democrats, to -- the best history I</p> <p>12 can recall, the Democrats actually created the bill,</p> <p>13 in essence, so that there was a way to -- to organize</p> <p>14 what bill comes on the floor.</p> <p>15 So if you can get 20 other Democrats -- since</p> <p>16 there's 26 or eight of you, however many -- if you can</p> <p>17 get 20, okay, I'll take your bill. But otherwise, I</p> <p>18 just can't -- if you're the lieutenant governor, you</p> <p>19 can't take everyone's bill.</p> <p>20 In the 1950s, it really came into play where</p> <p>21 it started being used a little bit. In essence, what</p> <p>22 the blocker bill says -- think of one street of</p> <p>23 traffic. If there's a car and it's broken down, every</p> <p>24 car behind it can't go through, it's blocking traffic,</p> <p>25 so you have to go around to move forward.</p>
<p style="text-align: right;">162</p> <p>1 Q. And, again, it's not because of any specific</p> <p>2 reasons; because you don't, as you sit here today,</p> <p>3 know any specific reasons why the Democratic senators</p> <p>4 were opposed to the bill?</p> <p>5 A. I mean, I can't -- I can't speculate on why</p> <p>6 they voted against the bill. I mean, it's just -- you</p> <p>7 know. And did one or two of them tell me why? If</p> <p>8 they did, I don't recall. I mean, again, I don't</p> <p>9 recall any deep discussion about it with them, outside</p> <p>10 of what took place on the Senate floor or in a caucus</p> <p>11 meeting maybe.</p> <p>12 Q. And what's the blocker bill?</p> <p>13 A. The blocker bill, if I can explain it to you</p> <p>14 very simply, because -- it's not complicated. Texas,</p> <p>15 for a long time, was a -- and the reason I know pretty</p> <p>16 well is because I've been opposing it for a long time</p> <p>17 and I've given debates on the floor.</p> <p>18 For most of the last century, Texas was an</p> <p>19 all Democrat state, in terms of its legislators or</p> <p>20 strong majority. So in the '30s, '40s, '50s, and</p> <p>21 '60s, when there were 31 senators, there may have</p> <p>22 been, at any given time, two, three or four</p> <p>23 Republicans with all Democrats. For all the</p> <p>24 Democrats -- and if it were all Republicans, it would</p> <p>25 be the same thing.</p>	<p style="text-align: right;">164</p> <p>1 So what the blocker bill does is -- and,</p> <p>2 again, the Democrats, from the best of my study,</p> <p>3 started it, created it. What the -- what the blocker</p> <p>4 bill -- and it was also -- it's known as the rosebush</p> <p>5 bill. The Democrats would have someone file a bill</p> <p>6 dealing with the landscaping of the Capitol and they</p> <p>7 would never pass the bill. It would block every other</p> <p>8 bill.</p> <p>9 So for you to pass your bill, you would have</p> <p>10 to get 20 other senators to agree with you, because</p> <p>11 you'd be the 21st vote, to suspend the rules to go</p> <p>12 around that bill.</p> <p>13 So what has been the tradition over the</p> <p>14 years -- and, again, the Senate -- the lieutenant</p> <p>15 governor doesn't decide, the senators vote on</p> <p>16 that -- every year we vote on the rules. The</p> <p>17 senators, Democrats and Republican, we get in a room</p> <p>18 and we vote all the rules. We can vote any rule we</p> <p>19 want. And so that rule is still in place today.</p> <p>20 And so every session there is a bill -- it</p> <p>21 may not be -- I don't even know what they have been</p> <p>22 the last couple of sessions. I don't know if it's</p> <p>23 landscaping anymore. But a bill is filed, it's put in</p> <p>24 the chute ready to go, but it never gets voted on.</p> <p>25 So if -- if we were all senators, I</p>

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<p style="text-align: right;">169</p> <p>1 A. There is, but I don't know the name of it. 2 Q. Okay. Does -- 3 A. Or I don't recall the name of it. 4 Q. Okay. There's one of the e-mails higher up 5 in the chain on 9976, Grassroots America; does that 6 ring a bell? 7 A. Where is that? 8 Q. Her signature block at the very top e-mail on 9 the top of the page. 10 A. Yeah. Grassroots America - We the People? 11 Q. Yes. What is that organization? 12 A. Yeah, it's a -- I believe it's a two-party 13 group, but I'm not -- we have lots of different names 14 for the groups, so... 15 Q. Okay. Could you take a look at the e-mail 16 that starts on 76 and then goes onto 77? 17 A. Yes. 18 Q. And tell me when you're ready. 19 MR. CLAY: And just to be clear, again, 20 you're talking about the embedded e-mail -- 21 MS. BALDWIN: Yes. 22 MR. CLAY: -- that starts at the bottom 23 of 76? 24 MS. BALDWIN: Yes. And that has the 25 date of June 14, 2011, at --</p>	<p style="text-align: right;">171</p> <p>1 A. I do. 2 Q. And why did you write that photo voter ID is 3 a bill that directly or indirectly impacts illegal 4 immigrants? 5 A. Because once instituted, if you had to have a 6 photo ID of a government document and also be 7 registered to vote, it would prevent people who are 8 ineligible to vote to vote. And people who come here 9 illegally are ineligible to vote. 10 Q. Was that a concern that you had in passing 11 SB 14, that illegal immigrants were voting in Texas? 12 A. Well, our concern was that we wanted 13 integrity of the ballot box so that no one who was 14 ineligible or not registered to vote, voted. 15 It didn't make any difference who they were 16 if they weren't eligible. They could live in Texas 17 from another state, for example, have residency in 18 another state and not be eligible, or they might not 19 be registered. So it wasn't specified any -- there 20 was no one targeted group. 21 It was just -- but she was apparently asking 22 me a question -- I'm assuming, based on my answer -- 23 she was asking me bills that impacted people here 24 illegally. And Senate Bill 14, that would be a 25 subgroup of many who would be ineligible to vote.</p>
<p style="text-align: right;">170</p> <p>1 MR. CLAY: Okay. Thanks. 2 MS. BALDWIN: -- at 8:18. 3 A. Well, if -- if you want to just ask me about 4 specifics on this? 5 Q. (BY MS. BALDWIN) Sure. Okay. What's the 6 context of this message? In other words, why were you 7 sending this message to JoAnn Fleming? 8 A. I don't recall. But in reading it, it 9 appears that she sent me questions about a number of 10 issues, and I was responding, apparently, after 11 session was over. I don't know if we were in special 12 that year or not. 13 But I sent it in, June 11th. So it looks 14 like she was -- which many citizens ask me about, all 15 the time after session ends, about various bills, or, 16 you know, trying to get a better understanding of what 17 passed, didn't pass, why it passed, why it didn't 18 pass. 19 Q. Do you see partway down that e-mail there's a 20 line after Number 6 and before Number 1, that says 21 "Bills that passed during session that directly or 22 indirectly impact illegal immigrants"? 23 A. Okay. Yes, I do. 24 Q. And do you see that listed under there as 25 Number 3 is SB 14 photo voter ID?</p>	<p style="text-align: right;">172</p> <p>1 Q. Did you view SB 14 as a bill that dealt with 2 illegal immigration then, if I understand? 3 MS. DONNELLY: Objection. Form. 4 Mischaracterizes his testimony. 5 A. I think I just answered the question. It did 6 not. It dealt with it only if they would be a subset 7 of a group that were ineligible to vote. 8 Q. (BY MS. BALDWIN) Was that a problem, that 9 illegal immigrants were trying to vote in Texas? 10 A. You can never prove a negative. So if 11 someone voted who shouldn't vote and we didn't know 12 it, we didn't know it. But the goal of Senate Bill 13 14, once again, was to be sure that people who were 14 ineligible to vote or not registered to vote weren't 15 able to vote. 16 Q. But illegal immigrants, in particular? 17 A. No. You keep saying that; and I've said, 18 multiple times, that was not the reason. 19 Q. But it's your words here, "That directly or 20 indirectly impact illegal immigrants." 21 So one question is: Does SB 14 directly or 22 indirectly impact the illegal immigrants as you use 23 this language in this e-mail? 24 MS. DONNELLY: Objection. 25 Argumentative.</p>

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<p style="text-align: right;">173</p> <p>1 Go ahead.</p> <p>2 A. I don't know how better to answer the</p> <p>3 question. The purpose of Senate Bill 14 was to make</p> <p>4 sure we had integrity of the ballot box so that people</p> <p>5 who were ineligible to vote or not registered, that</p> <p>6 they didn't vote. And that's a -- a spectrum of</p> <p>7 people. And illegal immigrants are a subset of that</p> <p>8 group because they're not eligible to vote.</p> <p>9 It wasn't -- in my view, it wasn't -- that</p> <p>10 was not the sole purpose of the bill. It wasn't the</p> <p>11 sole purpose of the bill, beyond what I've said,</p> <p>12 clearly.</p> <p>13 Q. (BY MS. BALDWIN) Right, not a sole purpose;</p> <p>14 but was it a purpose?</p> <p>15 A. Well, if felons aren't allowed to vote, for</p> <p>16 example, or in this country -- so if you asked me</p> <p>17 were -- did this bill impact felons, yes, we wanted to</p> <p>18 be sure that felons weren't able to vote.</p> <p>19 Q. Could felons have a passport?</p> <p>20 A. They could vote -- the purpose of -- it was</p> <p>21 to be sure that people who weren't eligible to vote,</p> <p>22 could vote, that voted.</p> <p>23 The point is -- my example is that felons,</p> <p>24 like people who don't have residency in Texas, like</p> <p>25 people who are here illegally, are all people who are</p>	<p style="text-align: right;">175</p> <p>1 Q. Right. But showing an ID wouldn't prevent</p> <p>2 them from illegally voting?</p> <p>3 A. I don't understand your question.</p> <p>4 Q. Okay. We'll move on.</p> <p>5 Does Grassroots America, as an organization,</p> <p>6 place a high priority on illegal immigration as an</p> <p>7 issue?</p> <p>8 A. Don't know.</p> <p>9 Q. Did you seek and receive an endorsement from</p> <p>10 Grassroots America in your campaign for lieutenant</p> <p>11 governor?</p> <p>12 A. I'm sorry, say that again.</p> <p>13 Q. Did you seek and receive an endorsement from</p> <p>14 Grassroots America in your campaign for lieutenant</p> <p>15 governor?</p> <p>16 A. I sought an endorsement from JoAnn Fleming.</p> <p>17 Q. And did you receive an endorsement?</p> <p>18 A. Uh-huh.</p> <p>19 Q. And from JoAnn Fleming in her capacity as</p> <p>20 affiliated with Grassroots America?</p> <p>21 A. That, I'm not sure. Sometimes people endorse</p> <p>22 you, sometimes they're groups; and I can't remember in</p> <p>23 that case what the situation was.</p> <p>24 Q. I'd like to give you a document which, again,</p> <p>25 has been produced in this litigation under the "Highly</p>
<p style="text-align: right;">174</p> <p>1 not eligible to vote. So any subset of a group was</p> <p>2 not eligible to vote.</p> <p>3 But we weren't targeting felons, we weren't</p> <p>4 targeting illegals, we weren't targeting people who</p> <p>5 actually live in Oklahoma who happen to be here. We</p> <p>6 were targeting people who were ineligible to vote.</p> <p>7 Q. But with respect to the example you just gave</p> <p>8 of felons, SB 14 couldn't have targeted those because</p> <p>9 there are forms of ID -- a driver's license doesn't</p> <p>10 say whether or not you're a felon, right?</p> <p>11 A. I think I've answered this question more than</p> <p>12 enough for you. I gave you my answer. Anyone can</p> <p>13 vote illegally.</p> <p>14 Q. But SB 14 wouldn't prevent felon voting,</p> <p>15 correct?</p> <p>16 MS. DONNELLY: Objection. Form. This</p> <p>17 is argumentative.</p> <p>18 A. It might.</p> <p>19 Q. (BY MS. BALDWIN) How so?</p> <p>20 A. I can't explain how so. It might.</p> <p>21 Q. Okay. So -- but we -- we both agree that a</p> <p>22 felon could have a U.S. passport or a Texas driver's</p> <p>23 license?</p> <p>24 A. They could. But they're not allowed to</p> <p>25 register to vote.</p>	<p style="text-align: right;">176</p> <p>1 Confidential" label, that has a Bates number of</p> <p>2 TX 00009987 to 9990. And this will be marked as</p> <p>3 Exhibit 8.</p> <p>4 (Patrick Exhibit 8 marked/introduced.)</p> <p>5 Q. (BY MS. BALDWIN) I'd like to ask you a</p> <p>6 question about the embedded e-mail that begins on 9987</p> <p>7 that was sent on Sunday, August 29, 2010.</p> <p>8 A. All right. August 29th?</p> <p>9 Q. Yes.</p> <p>10 A. Oh, I see it. I'm sorry. Okay. I see it.</p> <p>11 Q. And is this an e-mail from you to a group of</p> <p>12 Republican senators?</p> <p>13 A. Yes.</p> <p>14 Q. Can you explain to me the context of this</p> <p>15 e-mail, specifically what the "two days together" that</p> <p>16 you're referring to in the first paragraph is with</p> <p>17 respect to?</p> <p>18 A. Let me read it.</p> <p>19 Q. Sure.</p> <p>20 A. Okay. I don't remember the meeting, but we</p> <p>21 must have met somewhere.</p> <p>22 Q. Did you have caucus retreats?</p> <p>23 A. We normally have maybe one, maybe two, before</p> <p>24 a session.</p> <p>25 Q. Does this e-mail bring to mind any</p>

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<p style="text-align: right;">177</p> <p>1 discussions you may have had among the Republican</p> <p>2 caucus about the process of bringing forward SB 14?</p> <p>3 A. You know what's interesting is, I wouldn't</p> <p>4 even have remembered the meeting or the e-mail if you</p> <p>5 didn't have it. So it does not.</p> <p>6 Q. Okay.</p> <p>7 A. I'm looking at this, and it doesn't ring a</p> <p>8 bell, and I obviously sent it.</p> <p>9 Q. Do you see the sentence, quote, "In view of</p> <p>10 our discussion on voter ID and immigration, several of</p> <p>11 you mentioned you thought the two issues were one in</p> <p>12 the same, or at a minimum connected"?</p> <p>13 A. I do.</p> <p>14 Q. Is it your understanding that those two</p> <p>15 issues are one and the same, voter ID and immigration?</p> <p>16 A. No. I think what -- and I'm just reading</p> <p>17 this for the first time in four years, three years,</p> <p>18 two years. It looks like several of you mentioned, or</p> <p>19 at a minimum, connected; and I apparently found the</p> <p>20 story that made their point.</p> <p>21 Apparently someone brought up at the meeting,</p> <p>22 if you read this, "In view of our discussion on voter</p> <p>23 ID and immigration, several of you mentioned..."</p> <p>24 I didn't say I brought up the fact. So</p> <p>25 "several of you" -- I'm not saying I didn't, but I</p>	<p style="text-align: right;">179</p> <p>1 A. There could be.</p> <p>2 Q. Could be, but for you, was there?</p> <p>3 A. I'm sure, as I said earlier answering the</p> <p>4 other question, that illegal immigrants are not</p> <p>5 eligible to vote and they are a subset of people who</p> <p>6 are ineligible to vote. So, obviously, you could</p> <p>7 connect between the two.</p> <p>8 Q. Do you recall who mentioned -- as you read in</p> <p>9 this e-mail, several senators mentioned that they</p> <p>10 thought these two issues were connected, or one and</p> <p>11 the same. Which senators those were?</p> <p>12 MS. DONNELLY: Objection.</p> <p>13 And please do not disclose who said what</p> <p>14 in private conversations. You can reveal public</p> <p>15 statements by another legislator, but please do not</p> <p>16 reveal what was said in private conversations.</p> <p>17 A. I didn't even remember the meeting or the</p> <p>18 e-mail, so I don't remember who said what.</p> <p>19 Q. (BY MS. BALDWIN) I'd like to read you a</p> <p>20 sentence and ask your reaction.</p> <p>21 A. Okay.</p> <p>22 Q. With 8 to 12 million illegal aliens currently</p> <p>23 living in the U.S., the basic American principle of</p> <p>24 one person, one vote, is in danger.</p> <p>25 Do you agree with this statement?</p>
<p style="text-align: right;">178</p> <p>1 just -- it looks like it was a discussion by others</p> <p>2 and I read this article and I sent it on to those who</p> <p>3 made that point.</p> <p>4 Q. So is there a connection between photo ID and</p> <p>5 the growth of immigration in Texas?</p> <p>6 A. On the growth of immigration, legal --</p> <p>7 Q. The immigrant population.</p> <p>8 MS. DONNELLY: Objection. Form.</p> <p>9 A. Legal immigration or illegal immigration?</p> <p>10 Q. (BY MS. BALDWIN) Either.</p> <p>11 A. There is a difference.</p> <p>12 Q. Sure. But to your mind, is there a</p> <p>13 connection between either?</p> <p>14 MS. DONNELLY: Objection. Vague.</p> <p>15 A. I think you have to classify it.</p> <p>16 Q. (BY MS. BALDWIN) Is there a connection</p> <p>17 between the growth of the noncitizen population in</p> <p>18 Texas, generally, and photo ID, to your mind?</p> <p>19 MS. DONNELLY: Objection. Form.</p> <p>20 A. Legal or illegal?</p> <p>21 Q. (BY MS. BALDWIN) Both.</p> <p>22 A. If you ask me separately, I can answer. If</p> <p>23 you ask me both, I can't answer.</p> <p>24 Q. Okay. Is there a connection between illegal</p> <p>25 immigration and photo ID?</p>	<p style="text-align: right;">180</p> <p>1 A. Is that from that article?</p> <p>2 Q. No.</p> <p>3 MR. CLAY: Objection. Form.</p> <p>4 A. I'd have to think about it.</p> <p>5 Q. (BY MS. BALDWIN) Have you ever heard that</p> <p>6 sentiment expressed before?</p> <p>7 A. Not that I recall.</p> <p>8 Q. Has any voter ever told you that they're not</p> <p>9 going to vote in a particular election because they're</p> <p>10 afraid that their vote will be diluted by fraudulent</p> <p>11 votes?</p> <p>12 A. Not that I recall. Someone may have said it,</p> <p>13 but I don't -- nothing specific that I can recall.</p> <p>14 Q. Do you believe that prior to the passage of</p> <p>15 SB 14 there were Texas voters who did not vote because</p> <p>16 they believed that in-person voter impersonation would</p> <p>17 cancel out their vote?</p> <p>18 A. I wouldn't know that, but I've never heard</p> <p>19 anyone say that to me.</p> <p>20 Q. Based on your knowledge of Texas politics,</p> <p>21 would you agree that the majority of African-American</p> <p>22 voters and the majority of Anglo voters vote for</p> <p>23 different candidates in statewide general elections in</p> <p>24 recent Texas elections?</p> <p>25 MS. DONNELLY: Objection. Form.</p>

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<p style="text-align: right;">181</p> <p>1 A. It depends on the -- first of all, I wouldn't 2 know specifically. But it would -- but it would 3 depend on the person who's on the ballot. 4 Q. (BY MS. BALDWIN) Are you aware of any 5 partisan contest in Texas in which the majority of 6 African-Americans would have supported the Republican 7 candidate? 8 A. No, I'm not aware of that, but I thought you 9 said would any, so... 10 Q. I said "the majority," to be clear. 11 A. Okay. Okay. I missed that. 12 Q. So let me restate the question then to make 13 sure. Would you agree that the majority of 14 African-American voters and the majority of Anglo 15 voters vote for different candidates in statewide 16 general elections in Texas? 17 MS. DONNELLY: Objection. Form. 18 A. I think that the majority of -- well, again, 19 you know, I'd have to look at a specific election and 20 candidate. But I -- but I would think, you know, 21 candidly, it would be fair to say that the majority of 22 minority voters vote for different candidates, but not 23 in every case, not -- at least not to my knowledge. 24 Q. (BY MS. BALDWIN) And when you say "minority 25 voters," are you including both African-American and</p>	<p style="text-align: right;">183</p> <p>1 Q. -- then not the specifics of the bills. 2 And to your knowledge, does the state of 3 Texas have a history of discriminating against 4 minority voters? 5 A. Not in my personal knowledge. Not in my 6 personal knowledge, of my personal knowledge. 7 Now, if you're talking about, have I read 8 history and views on history, yes. But in my personal 9 knowledge, no. 10 Q. Okay. But you're aware, for example, that 11 the state of Texas had a poll tax? 12 A. Not the specifics. But if -- if you -- you 13 know, I'm a fairly good student of history, so I'm 14 aware there were some issues in the past; which, by 15 the way, when the Democrats were in charge of the 16 state, not Republicans. 17 Q. Right. And so you're aware that there was an 18 all-white Democratic primary in Texas, for example? 19 A. I'm not aware -- I'm not actually aware of 20 that specific point, but I am aware of -- of issues in 21 the past. 22 Q. Are you aware of whether Texas has a history 23 of official racial discrimination in other areas, such 24 as access to public education? 25 MR. CLAY: Objection. Form.</p>
<p style="text-align: right;">182</p> <p>1 Hispanic voters in that statement? 2 A. Yes. For example, I don't know how many 3 Hispanic voters voted for George Bush when he ran for 4 president in 2000, 2004, but it might have been a 5 majority. I just don't know that. 6 Q. Can you think of any Texas candidate or 7 statewide office in Texas where you believe the 8 majority of minority voters would have voted for the 9 Republican candidate? 10 A. I can't think of any offhand. 11 Q. In your judgment, does racial polarization in 12 Texas politics play any role in why support for SB 14 13 was divided along party lines? 14 MS. DONNELLY: Objection. Speculation. 15 A. Well, first of all, my position is, it was 16 not objected across party lines. The majority of 17 voters in Texas, the majority of citizens in Texas, 18 supported voter ID. 19 I can't help what Democrat-elected officials 20 voted for or against. But if you ask about an issue, 21 the -- that was a bipartisan, across-all-party-lines, 22 supported issue. 23 Q. (BY MS. BALDWIN) You have talked extensively, 24 and I won't retreat that, about the concept and -- 25 A. Well, you keep asking me.</p>	<p style="text-align: right;">184</p> <p>1 A. You'll have to say that one again. You 2 speeded up. 3 Q. (BY MS. BALDWIN) Are you aware of whether 4 Texas has a history of discrimination in other areas, 5 such as access to public education? 6 A. I'm not personally -- 7 MS. DONNELLY: Objection. Form. 8 THE WITNESS: I'm sorry. 9 A. I'm not personally aware. But I'm sure, you 10 know, I've read or been told about things in the past, 11 long before I was even born or arrived in Texas. 12 Q. (BY MS. BALDWIN) As a current candidate for 13 statewide office, do you believe it's important to 14 campaign so as to appeal to all voters, regardless of 15 race? 16 A. Of course. 17 Q. During the time that you've been involved in 18 Texas politics, have you witnessed occasions where one 19 candidate tries to use race as a factor against 20 another candidate? 21 A. I believe that in some cases Democrats have 22 tried to use that card from time to time. I do not 23 know of Republicans who may have. They may have. But 24 I -- I see it more from the Democrat side. 25 Q. Do you recall that David Dewhurst, the</p>

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<p style="text-align: right;">185</p> <p>1 current lieutenant governor, ran against Ted Cruz for 2 Senate in 2012?</p> <p>3 MS. DONNELLY: Counsel, we're getting a 4 little far afield from voter ID here. Are we going 5 somewhere back to voter ID quickly here or is this 6 just going to be about politics?</p> <p>7 MS. BALDWIN: You're welcome to raise a 8 relevance objection for the record, but Section 2 9 clearly has racial appeals as one of the Senate 10 factors and the court recognized that in its recent 11 decision, so --</p> <p>12 MS. DONNELLY: The campaign between two 13 people who are not here to be deposed I'm not sure is 14 relevant in any regard.</p> <p>15 MS. BALDWIN: You're welcome to state 16 that objection for the record and I'd just ask that we 17 move along with my questions and we'll get these over 18 and --</p> <p>19 MR. CLAY: The Court has also said that 20 campaign stuff is not really relevant, so...</p> <p>21 MR. DERFNER: Not exactly.</p> <p>22 MS. BALDWIN: The Court said there's no 23 arguments --</p> <p>24 MR. DERFNER: I don't think it's going 25 to take very long. It would probably be easier to ask</p>	<p style="text-align: right;">187</p> <p>1 me back up. Are you familiar with the positions that 2 Senator Cruz takes on illegal immigration?</p> <p>3 MR. CLAY: Objection. Relevance.</p> <p>4 MS. DONNELLY: Objection. Relevance.</p> <p>5 MR. CLAY: Form.</p> <p>6 MS. DONNELLY: And also -- yes, form.</p> <p>7 Q. (BY MS. BALDWIN) You can answer.</p> <p>8 A. I have not closely followed Ted Cruz's 9 position in specifics, so I couldn't tell you 10 specifically where he is on issues. And if I were, I 11 would be guessing and I might guess wrong.</p> <p>12 Q. Okay. So having not heard the ad, I take it 13 you're not familiar with the fact that criticism was 14 leveled at it as being race-baiting?</p> <p>15 A. No, I -- no, I really didn't.</p> <p>16 MS. BALDWIN: I'd like to mark a 17 document as Exhibit 9. 18 (Patrick Exhibit 9 marked/introduced.) 19 MR. CLAY: I'm going to go ahead and 20 lodge a general relevance objection to questions 21 regarding Exhibit 9. 22 MS. DONNELLY: Join that objection. It 23 is not relevant to voter ID. 24 Q. (BY MS. BALDWIN) Senator Patrick, in your 25 campaign for lieutenant governor, would you agree that</p>
<p style="text-align: right;">186</p> <p>1 the questions, get them answered, than to argue about 2 it.</p> <p>3 MS. DONNELLY: That's fine. That's 4 fine, as long as it's limited. But we're not going to 5 spend a lot of time on this thing, I take it.</p> <p>6 MS. BALDWIN: It's not nearly the length 7 that we've been through before.</p> <p>8 MR. CLAY: Hopefully not as pointed as 9 before either.</p> <p>10 Q. (BY MS. BALDWIN) Do you recall hearing a 11 radio ad or hearing about a radio ad that Lieutenant 12 Governor Dewhurst ran against Senator Cruz accusing 13 him of supporting amnesty for illegal immigrants?</p> <p>14 A. I don't -- that's a distant race for me, even 15 though it's only a year old. I've been busy in the 16 last year and a half in my own race.</p> <p>17 Q. I'd like to refresh your recollection and 18 just play you a copy of the ad and see if that...</p> <p>19 (Ad playing.)</p> <p>20 Q. Do you recall ever hearing that ad before?</p> <p>21 A. Actually, I don't think I had heard that ad 22 before.</p> <p>23 MR. DERFNER: You could have used it 24 yourself.</p> <p>25 Q. (BY MS. BALDWIN) Having heard that ad -- let</p>	<p style="text-align: right;">188</p> <p>1 illegal immigration has been a significant issue? 2 A. Yes.</p> <p>3 Q. Do you believe that you've taken harder line 4 stances against illegal immigration than your Republican 5 opponents?</p> <p>6 A. They wouldn't say so. They all said they 7 agreed with me.</p> <p>8 Q. But do you believe that you took harder line 9 stances than your opponents?</p> <p>10 A. You know, I just believe I took the positions 11 I believed in and they took the positions they 12 believed in.</p> <p>13 Q. Do you believe that the issue of illegal 14 immigration contributed to the success of your 15 campaign?</p> <p>16 MS. DONNELLY: Objection. Form.</p> <p>17 A. I believe a lot of factors contributed to the 18 success of my campaign.</p> <p>19 Q. (BY MS. BALDWIN) Do you believe that your 20 positions on illegal immigration were one thing that 21 specifically appealed to voters?</p> <p>22 MS. DONNELLY: Counsel, this is 23 really -- this is all a line of questioning that has 24 nothing to do with voter ID.</p> <p>25 I mean, how -- how many more questions</p>

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<p style="text-align: right;">189</p> <p>1 do you have on this? We're going to allow a little</p> <p>2 bit of questioning, but --</p> <p>3 MS. BALDWIN: Just a few.</p> <p>4 MS. DONNELLY: -- just not -- we're not</p> <p>5 going to go on and on about this.</p> <p>6 A. Repeat, please.</p> <p>7 MS. BALDWIN: Could you read that back,</p> <p>8 please.</p> <p>9 MR. DERFNER: I think it does have to do</p> <p>10 with voter ID. It's part of -- it is part of Section</p> <p>11 2. It's one of the factors that goes into there.</p> <p>12 MS. DONNELLY: Well, I wasn't --</p> <p>13 MR. DERFNER: We are going to end it</p> <p>14 pretty soon.</p> <p>15 MS. DONNELLY: Okay. I didn't hear the</p> <p>16 judge's ruling, and I won't tell you I was there, but</p> <p>17 it strikes me as this has nothing to do with it.</p> <p>18 MR. CLAY: We're also talking about a</p> <p>19 campaign that took place several years after the</p> <p>20 advent of voter ID, so...</p> <p>21 MR. DERFNER: Right. All of which</p> <p>22 relates to the atmosphere and --</p> <p>23 MR. CLAY: Several years after the</p> <p>24 advent --</p> <p>25 MR. DERFNER: Oh, yeah, exactly. Yeah.</p>	<p style="text-align: right;">191</p> <p>1 photo I've been given.</p> <p>2 Q. Do they look Anglo to you?</p> <p>3 A. The one in the middle of -- it's impossible</p> <p>4 to tell, in my view. And the one closest, impossible,</p> <p>5 because the face is -- the whole person is -- is dark.</p> <p>6 Q. They are dark images, correct?</p> <p>7 A. They're dark images.</p> <p>8 MS. DONNELLY: Meaning the shadow, not</p> <p>9 the face?</p> <p>10 A. The shadow, yeah. I don't mean -- yeah, I</p> <p>11 don't mean that they're dark, in being black or brown.</p> <p>12 I mean they're dark in the shadow or the presentation</p> <p>13 of the ad.</p> <p>14 MS. DONNELLY: The photograph is not</p> <p>15 very good.</p> <p>16 THE WITNESS: Yeah.</p> <p>17 Q. (BY MS. BALDWIN) Why does this ad use the</p> <p>18 word "invasion"?</p> <p>19 A. Because the word "invasion" applied to the</p> <p>20 number of illegal immigrants that had been pouring</p> <p>21 over the border in recent times. Other people might</p> <p>22 use another word, but it's been a significant number</p> <p>23 of people.</p> <p>24 Q. An invasion often carries the connotation of</p> <p>25 an enemy force. Do you mean it to have that</p>
<p style="text-align: right;">190</p> <p>1 MS. BALDWIN: At any rate, if we could</p> <p>2 just read the question back and we'll get through this</p> <p>3 line of questioning.</p> <p>4 THE REPORTER: "Do you believe that your</p> <p>5 positions on illegal immigration were one thing that</p> <p>6 specifically appealed to voters?"</p> <p>7 A. Yes.</p> <p>8 Q. (BY MS. BALDWIN) Exhibit 9, is this an image</p> <p>9 that your campaign has used on the Internet?</p> <p>10 A. You know, I assume so. We -- it was a long</p> <p>11 campaign, obviously. The record speaks for itself.</p> <p>12 Q. Could you describe what's pictured in this</p> <p>13 image?</p> <p>14 A. Well, it speaks for itself. It's people</p> <p>15 getting on a train, is what it appears to me, or maybe</p> <p>16 it's climbing a fence. Hard to say. It could be a</p> <p>17 railcar. It could be a fence.</p> <p>18 Q. Are the three men pictured supposed to</p> <p>19 represent illegal immigrants?</p> <p>20 A. Don't know. I didn't do the ad, but -- but</p> <p>21 I -- that would be my -- I think that's what it would</p> <p>22 suggest.</p> <p>23 Q. And as you look at this ad, what's the race</p> <p>24 of the persons pictured?</p> <p>25 A. You can't tell by -- you can't tell by the</p>	<p style="text-align: right;">192</p> <p>1 connotation?</p> <p>2 A. No.</p> <p>3 Q. When you were first running for Senate in</p> <p>4 2006, did you state that -- about illegal</p> <p>5 immigrants -- that, quote, "they are bringing third</p> <p>6 world diseases with them," end quote, including,</p> <p>7 quote, "polio and leprosy"?</p> <p>8 A. I was quoting -- I believe that's from a Fox</p> <p>9 newscast, of which I was on. And I was quoting a</p> <p>10 Centers for Disease Control study from 2006, as best I</p> <p>11 recall. And I wouldn't even have any recollection of</p> <p>12 that except I've been asked this before.</p> <p>13 Q. Do you believe that the statement was</p> <p>14 accurate -- do you believe, today, that the statement</p> <p>15 was accurate when you made it?</p> <p>16 A. Well, the Centers for Disease Control based</p> <p>17 in Atlanta is a nonpartisan group, and so I would</p> <p>18 think that their information is accurate.</p> <p>19 Q. So do you stand by the idea that today</p> <p>20 undocumented immigrants are bringing polio and leprosy</p> <p>21 to Texas?</p> <p>22 MS. DONNELLY: I'm going to object to</p> <p>23 that question, and I -- I really do think we've gone</p> <p>24 on and this is far, far afield. I think we've</p> <p>25 answered all the questions we're going to answer on</p>

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<p style="text-align: right;">193</p> <p>1 that.</p> <p>2 Q. (BY MS. BALDWIN) Last topic. Are you aware</p> <p>3 of Ted Nugent, in public remarks, calling President</p> <p>4 Obama a "subhuman mongrel"?</p> <p>5 MS. DONNELLY: This is way off field.</p> <p>6 We're not answering that one either.</p> <p>7 MS. BALDWIN: I would hate to have to</p> <p>8 come back to reopen the deposition to just do four</p> <p>9 questions.</p> <p>10 MS. DONNELLY: If we're going to reopen</p> <p>11 the whole deposition for that question, I guess I'll</p> <p>12 be surprised by that.</p> <p>13 Do you have an answer to that?</p> <p>14 A. What was the question?</p> <p>15 Q. (BY MS. BALDWIN) Are you aware of Ted Nugent,</p> <p>16 in public remarks, calling President Obama a "subhuman</p> <p>17 mongrel"?</p> <p>18 MS. DONNELLY: Objection. Relevance.</p> <p>19 Have you heard of it?</p> <p>20 A. I may have heard something in the news about</p> <p>21 it, or somewhere, but I -- it's not something that</p> <p>22 jumps off the page to me.</p> <p>23 Q. (BY MS. BALDWIN) Would you agree that it was</p> <p>24 a racist statement to call President Obama a "subhuman</p> <p>25 mongrel"?</p>	<p style="text-align: right;">195</p> <p>1 think these questions are out of bounds. And I'm not</p> <p>2 a lawyer, so I guess you can ask them, but I'm not</p> <p>3 going to respond to them.</p> <p>4 Q. (BY MS. BALDWIN) The last question: What</p> <p>5 kind of message do you think it sends to</p> <p>6 African-American Texans for a candidate for governor</p> <p>7 to appear with someone who has used this kind of</p> <p>8 rhetoric?</p> <p>9 MR. CLAY: Objection. Form and</p> <p>10 foundation.</p> <p>11 MS. DONNELLY: Out of bounds.</p> <p>12 Irrelevant.</p> <p>13 MR. DERFNER: That sounds like a</p> <p>14 perfectly good question to me.</p> <p>15 A. I'm not even going to respond to it. I think</p> <p>16 it -- I think it is -- I feel like I'm now being</p> <p>17 attacked by you on a political basis, so I'm just...</p> <p>18 Q. (BY MS. BALDWIN) That's certainly not my</p> <p>19 intention, Senator.</p> <p>20 A. But I feel that way.</p> <p>21 Q. Well, again, that's not my intention.</p> <p>22 A. You're asking me to make a comment on someone</p> <p>23 who's running for public office and I don't think it's</p> <p>24 an appropriate question. It has nothing to do with</p> <p>25 voter ID.</p>
<p style="text-align: right;">194</p> <p>1 A. I don't like seeing citizens calling any</p> <p>2 legislator or officeholder by names, period, whether</p> <p>3 they be Republican or Democrat, office holders or --</p> <p>4 or citizens.</p> <p>5 Q. But this comment, in particular, would you</p> <p>6 agree that it is a racially inflammatory statement?</p> <p>7 A. It sounds distasteful to me.</p> <p>8 Q. But not racist?</p> <p>9 A. I don't know what this has to do with Senate</p> <p>10 Bill 14. I don't mind sitting here for six hours and</p> <p>11 answering your questions, or seven hours. I feel like</p> <p>12 this question is way out of bounds and I think I've</p> <p>13 given you an honest answer. I find it distasteful.</p> <p>14 If that's what he said, I think it was very</p> <p>15 inappropriate, and I can surely see how it could be</p> <p>16 viewed as being racist, absolutely.</p> <p>17 Q. Are you aware that before Ted Nugent had</p> <p>18 apologized for making those remarks, he campaigned</p> <p>19 with and on behalf of Attorney General Abbott in his</p> <p>20 run for governor?</p> <p>21 MR. CLAY: Objection. Relevance.</p> <p>22 MS. DONNELLY: Objection. Relevance.</p> <p>23 Counsel, can we move on? If we're not</p> <p>24 going to talk about SB 14, let's move on.</p> <p>25 A. Yeah, I'm -- I don't have anything to say. I</p>	<p style="text-align: right;">196</p> <p>1 Q. Again, my question is not about any candidate</p> <p>2 for office, but what kind of message do you think that</p> <p>3 sends to --</p> <p>4 MS. DONNELLY: He's answered the</p> <p>5 question, Counsel. We need to move on.</p> <p>6 A. I have nothing else to say.</p> <p>7 Q. (BY MS. BALDWIN) Okay. That's all I have on</p> <p>8 that topic.</p> <p>9 MS. CONLEY: Can we take a quick break?</p> <p>10 MS. DONNELLY: Sure.</p> <p>11 (Break.)</p> <p>12 MS. BALDWIN: Senator Patrick, I thank</p> <p>13 you for your time and I'll hand over questioning.</p> <p>14 E X A M I N A T I O N</p> <p>15 BY MS. CONLEY:</p> <p>16 Q. Senator --</p> <p>17 MS. DONNELLY: Danielle, I'm sorry to</p> <p>18 interrupt, but are we still under the seal?</p> <p>19 MS. CONLEY: Yes. Yes.</p> <p>20 MS. DONNELLY: Okay. Thank you.</p> <p>21 MS. CONLEY: We might as well keep the</p> <p>22 entire transcript highly confidential.</p> <p>23 MS. DONNELLY: All questions, all</p> <p>24 exhibits, all answers, are under seal.</p> <p>25 MS. CONLEY: Exactly.</p>

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<p style="text-align: right;">205</p> <p>1 center. And many of our rural counties don't have 2 medical facilities. 3 So that's why it wasn't a main -- it just 4 says "The" -- let me read it. "The purpose of the 5 amendment was to address the issue, as well as any 6 disabled person in any area who does not have a photo 7 ID and would face..." 8 For example, I've served on health and human 9 services three out of the last four sessions. When 10 we -- and when we have testimony in Austin, we have a 11 lot of people who come in self-controlled -- what's 12 the word I'm looking for -- wheelchairs, motorized 13 wheelchairs. 14 And I see them very often when I'm leaving 15 the Capitol or coming in. And some of them, by their 16 own initiative, without any help, because they are 17 very independent, many come blocks and blocks and 18 blocks to come to the Capitol. They live somewhere in 19 Austin. 20 So my image is that that's that group of 21 people who want to come and testify on -- not voter 22 ID, but on a health and human service issue. 23 But even if you lived in a city the size of 24 Austin, you may be someone who needs help to get 25 around. So even though DPS may only be two miles away</p>	<p style="text-align: right;">207</p> <p>1 the radio. 2 Q. You said he was the Harris County tax 3 collector -- 4 A. Tax assessor-collector. 5 Q. -- or tax assessor-collector. 6 Was he also the voter registrar? 7 A. You know, I don't know if that comes under 8 his purview or not. You know, I'd have to check. I 9 don't know. I don't know if that's the district clerk 10 or the county clerk. You know, I'm not sure. 11 Q. So you don't know. And do you believe that 12 you -- do you know whether you knew at the time -- 13 A. I don't know. 14 Q. -- that he was the voter registrar? 15 A. Yeah, I don't know. I just don't know. I 16 think he had something to do with it, but I can't tell 17 you what the title was. 18 Q. And why don't you take a little time to read 19 the e-mail before I ask you questions about it. 20 A. Okay. I speed-read through it. The middle 21 was kind of the same as the other. 22 Q. So did you frequently consult with 23 Mr. Bettencourt on pending legislation? 24 A. Yeah, Paul is a friend. And as a talk-show 25 host, I try to have the talk-show host of my radio</p>
<p style="text-align: right;">206</p> <p>1 or three miles, it's too far for you to go in your own 2 wheelchair without help. So that was the reason. 3 Q. Okay. So there are other reasons that -- 4 A. Other reasons. 5 Q. -- there are other reasons that people could 6 face burdens in trying to obtain a photo ID other than 7 the lack of a DPS in their particular county? 8 A. Well, for disabled people, yes. 9 Q. Let's take a look at another e-mail. 10 (Patrick Exhibit 11 marked/introduced.) 11 Q. (BY MS. CONLEY) I think we're up to Exhibit 12 11. And for the record, this e-mail is Bates stamped 13 TX 00261258 through 59. 14 A. Correct. 15 Q. Okay. And looking -- starting about a third 16 down in the page, the e-mail that I'm looking at is 17 from you, Dan Patrick, dated February 1, 2011, to Paul 18 Bettencourt; is that correct? 19 A. Yes, ma'am. 20 Q. And who is Paul Bettencourt? 21 A. Paul Bettencourt was a former -- I don't know 22 if he still was at the time -- tax assessor-collector 23 and -- in Harris County, and he was also a substitute 24 host on the radio for me when I was -- one of 25 several -- when I was in session and couldn't be on</p>	<p style="text-align: right;">208</p> <p>1 station informed of what's going on when I'm in the 2 legislature, because I'm pretty knowledgeable, 3 obviously. 4 Q. And so did you talk to him fairly frequently 5 about voter ID issues? 6 A. I don't know about voter ID issues 7 particularly, but we talked about all issues. 8 Q. And in that -- I guess it's the second 9 paragraph, right after the "DO NOT FORWARD E-MAIL" 10 language, you write: "My office got a long call from 11 Hammerline and Ed Johnson today." 12 And taking those people one by one, who is 13 Hammerline? 14 A. That's George Hammerline, and I don't know if 15 he worked for Paul, but he worked somewhere in county 16 government, either in the tax assessor-collector or 17 clerk's office or voter -- I'm not sure. But he works 18 in -- I think he works in county government. 19 Q. So is it your recollection that he was an 20 employee in the Harris County voter registration 21 department? 22 A. You know, I don't know his exact position, 23 but that's my -- I don't actually know what George 24 does, but I believe that he's involved somewhere in 25 the county government.</p>

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<p style="text-align: right;">209</p> <p>1 Q. Is he also a Republican campaign consultant?</p> <p>2 A. Not that I'm aware of.</p> <p>3 Q. So you're not one of his clients?</p> <p>4 A. Oh, no. I don't think he's a consultant,</p> <p>5 but, oh, no.</p> <p>6 Q. Okay.</p> <p>7 A. Again, I don't know if he is or he isn't, but</p> <p>8 not to my knowledge.</p> <p>9 Q. And what about Ed Johnson?</p> <p>10 A. Ed Johnson has a similar role. I'm not</p> <p>11 exactly sure what Ed does, but he works in county</p> <p>12 government.</p> <p>13 Q. He works in county government?</p> <p>14 A. It's something to do with -- with -- I think</p> <p>15 something to do with either the clerk's office or</p> <p>16 voter registrar or tax assessor. Don't know.</p> <p>17 Q. Okay. Is he a Republican campaign</p> <p>18 consultant?</p> <p>19 A. If he is, I'm not aware of it.</p> <p>20 Q. And so you're not one of his clients?</p> <p>21 A. No.</p> <p>22 Q. What is your relationship with them?</p> <p>23 A. I just know them.</p> <p>24 Q. And let's take them one by one.</p> <p>25 A. Okay.</p>	<p style="text-align: right;">211</p> <p>1 the office and -- you know, kind of an activist guy.</p> <p>2 Q. And when you say that your office "got a long</p> <p>3 call," was that you, personally? Did you personally</p> <p>4 speak with George Hammerline?</p> <p>5 A. No.</p> <p>6 Q. It was someone on your staff?</p> <p>7 A. Yes.</p> <p>8 Q. Do you know who?</p> <p>9 A. I do not.</p> <p>10 Q. And then with respect to Ed Johnson, what is</p> <p>11 your relationship with Ed?</p> <p>12 A. The same thing. I know Ed. You know, I see</p> <p>13 him occasionally on social occasions, and he's a</p> <p>14 precinct chair, so I see him at Republican gatherings</p> <p>15 and -- and he would come to the Capitol, too.</p> <p>16 I don't know if he represented the district</p> <p>17 clerk's office, like, with a government relations</p> <p>18 person. He and George may have done some of that.</p> <p>19 You know, I just don't know their specific official</p> <p>20 role.</p> <p>21 Q. And did you frequently consult with him when</p> <p>22 making decisions regarding legislation?</p> <p>23 A. Not legislation, in general. But both -- Ed,</p> <p>24 particularly, as I recall -- and I haven't talked to</p> <p>25 him for -- at length, probably, since 2011 -- but I</p>
<p style="text-align: right;">210</p> <p>1 Q. What's your relationship with George</p> <p>2 Hammerline?</p> <p>3 A. I just know them over the years of being --</p> <p>4 they're, you know, active people in the party and, you</p> <p>5 know, I just know -- you know, I just know them.</p> <p>6 Q. And did you also --</p> <p>7 A. Ed is a precinct chair as well near where I</p> <p>8 lived.</p> <p>9 Q. So with respect -- sticking with George</p> <p>10 Hammerline for a minute -- did you often consult with</p> <p>11 him when making decisions regarding legislation?</p> <p>12 A. Virtually never. I mean, I've had very -- if</p> <p>13 I talk to George twice a year, it'd be a lot.</p> <p>14 Q. Did you --</p> <p>15 A. Outside of a social thing or something.</p> <p>16 Q. Outside of this e-mail --</p> <p>17 A. Yes.</p> <p>18 Q. Let me rephrase the question.</p> <p>19 Did you have any conversations with George</p> <p>20 Hammerline regarding SB 14?</p> <p>21 A. You know, I might have, because he -- he</p> <p>22 would hang around the Capitol, and he's kind of an</p> <p>23 interested guy, and he may even -- he may even</p> <p>24 have a -- I mean, I'm not exactly sure what George's</p> <p>25 role was. But he would be at the Capitol and come in</p>	<p style="text-align: right;">212</p> <p>1 think he has something to do with -- he's really</p> <p>2 interested in the topic or -- and, so I think we</p> <p>3 probably had a discussion or two about different</p> <p>4 things. But I don't recall specifically. But I</p> <p>5 wouldn't be surprised if we didn't have discussion.</p> <p>6 Q. And you say in this sentence, right after you</p> <p>7 say that "My office got a long call from Hammerline</p> <p>8 and Ed Johnson," you say, "Paul, please call these</p> <p>9 guys and ask them to relax and not make this an</p> <p>10 issue."</p> <p>11 What were -- what were they making an issue?</p> <p>12 A. It all -- as I recall -- again, it all goes</p> <p>13 back to this handicapped hanger, that it</p> <p>14 just -- people just got up over the dashboard about</p> <p>15 it, like, "Oh, my goodness, Dan's going to let 500,000</p> <p>16 people just vote because they've got a handicapped</p> <p>17 hanger." That's what I recall.</p> <p>18 And they just didn't -- they hadn't -- which</p> <p>19 often happens. They hadn't read it and didn't</p> <p>20 understand what it meant.</p> <p>21 Q. So were they upset at the idea of an</p> <p>22 amendment that would allow more people to vote?</p> <p>23 A. No, not more people. They're fine with</p> <p>24 people voting who are registered and eligible to vote.</p> <p>25 Their concern was, it could create a loophole</p>

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<p style="text-align: right;">213</p> <p>1 for people who might want to vote illegally, to vote</p> <p>2 by just walking in and saying, "Here" -- you know,</p> <p>3 "Here's my -- I'm handicapped, I don't have to have</p> <p>4 photo ID." That was their -- I think their concern.</p> <p>5 Q. I see. So your understanding -- your</p> <p>6 understanding is that their impression was that they</p> <p>7 could simply vote by showing the little hanging</p> <p>8 sticker --</p> <p>9 A. Yes.</p> <p>10 Q. -- in their car?</p> <p>11 A. Yes. Yes. That -- that's what -- all the</p> <p>12 confusion from Catherine Englebreth. That's what</p> <p>13 they all thought. And, obviously, they were all</p> <p>14 supportive of the photo voter ID and they thought</p> <p>15 this -- that my amendment, potentially -- you know, I</p> <p>16 can't speak for their opinion, in their mind.</p> <p>17 But my -- my impression is, they thought this</p> <p>18 was undermining the bill by creating a -- that people</p> <p>19 would start, you know, asking for a handicapped</p> <p>20 hanger.</p> <p>21 Q. And so -- I think I asked you this question</p> <p>22 with respect to the last e-mail.</p> <p>23 But with respect to this e-mail, does this</p> <p>24 reflect -- does this reflect your understanding of the</p> <p>25 purpose behind the disability amendment that you</p>	<p style="text-align: right;">215</p> <p>1 Q. Right. And one of your -- your points here,</p> <p>2 is that "Therefore, a disabled person may" not "be</p> <p>3 able to get a ride to their local precinct" -- or,</p> <p>4 sorry, "Therefore, a disabled person may be able to</p> <p>5 get a ride to their local precinct, but not a ride</p> <p>6 over 75 miles if they live in one of these counties to</p> <p>7 get the photo ID."</p> <p>8 A. Yes.</p> <p>9 Q. Okay. And I believe that you testified</p> <p>10 earlier that -- your testimony was that people get</p> <p>11 rides all the time and that you didn't think it was</p> <p>12 harder for people without cars to get an ID.</p> <p>13 A. If they were not disabled.</p> <p>14 Q. So if the person is -- so you think it's a</p> <p>15 burden, if someone is disabled, to get a ride from</p> <p>16 someone to a DPS, but it's --</p> <p>17 MS. DONNELLY: Objection. Form. Go</p> <p>18 ahead.</p> <p>19 Q. (BY MS. CONLEY) -- but it's not a burden if</p> <p>20 someone needs to get a ride for any other reason from</p> <p>21 someone to go to a DPS?</p> <p>22 A. You know, to some of these things you apply</p> <p>23 your common sense and your knowledge. And we -- and</p> <p>24 reasonable people -- that's how we write legislation,</p> <p>25 very often.</p>
<p style="text-align: right;">214</p> <p>1 proposed?</p> <p>2 A. Yes, it does.</p> <p>3 Q. Okay. And so you note here, in the second</p> <p>4 paragraph, just as you did in the previous e-mail that</p> <p>5 we looked at, that "77 counties in Texas do not have a</p> <p>6 DPS office," right?</p> <p>7 A. Yes. 77 counties, or more, in Texas, don't</p> <p>8 have a lot of things.</p> <p>9 Q. Okay. But this -- but this is specifically</p> <p>10 about --</p> <p>11 A. Yes.</p> <p>12 Q. -- the lack of DPS offices --</p> <p>13 A. Yes.</p> <p>14 Q. -- in particular counties?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. Great. And then you further note that</p> <p>17 a disabled person may not be able to get "a ride over</p> <p>18 75 miles if they live in one of these counties to get</p> <p>19 the photo ID" --</p> <p>20 A. Right.</p> <p>21 Q. -- right?</p> <p>22 A. Yeah. This was a little "belt and</p> <p>23 suspenders." I wanted to be sure that people who had</p> <p>24 disabilities had -- made sure they had the opportunity</p> <p>25 to vote in person if they wanted to vote.</p>	<p style="text-align: right;">216</p> <p>1 And you come to the conclusion, as I've said</p> <p>2 earlier in my testimony, that if a person chooses to</p> <p>3 live in rural -- in a rural area, they usually have</p> <p>4 some means of getting somewhere; otherwise...</p> <p>5 Well, and again, take the disabled community</p> <p>6 to the side. I'm talking about an able-bodied</p> <p>7 community -- whether they're black, white, or brown,</p> <p>8 poor, middle class, or wealthy -- they have -- if they</p> <p>9 live in a rural area, they have some means of getting</p> <p>10 somewhere. They either have their own car or a family</p> <p>11 member has a car or a friend has a car.</p> <p>12 It is not logical, to me, that someone lives</p> <p>13 in a remote area without any access to transportation</p> <p>14 to get anywhere; otherwise, they would be very</p> <p>15 isolated.</p> <p>16 Q. Do you think that some -- you mentioned</p> <p>17 living in a rural area being a choice, right?</p> <p>18 A. It can be.</p> <p>19 Q. It can be.</p> <p>20 A. Not always, but it can be a choice.</p> <p>21 Q. But you would admit that it's not always a</p> <p>22 choice?</p> <p>23 MS. DONNELLY: Objection. Speculative.</p> <p>24 A. Yeah, I don't know why people choose to live</p> <p>25 places. But all of us choose to live in a state,</p>

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<p style="text-align: right;">217</p> <p>1 choose to live in a city, choose to live in a county, 2 choose to live wherever we live. Sometimes it's by 3 where we work. So I can't speak for everyone. But 4 very often, people choose to live where they choose to 5 live. 6 Q. (BY MS. CONLEY) Would you agree that if you 7 are poor or live below the poverty line in a rural 8 area, that it may not necessarily be a choice to just 9 pack up and move? 10 MR. CLAY: Objection. Form. 11 MS. DONNELLY: Objection. Form. 12 A. Yeah, I understand that in some cases it 13 might not be a choice. 14 Q. (BY MS. CONLEY) Okay. So you also 15 state -- and let me find it -- in your Number 2 there, 16 in that same paragraph, it's the last sentence: "It 17 could even be a burden in a suburban or urban area, 18 e.g. there is not a single DPS office inside the 19 Loop." Is that -- 20 A. Yes. 21 Q. Okay. And by "inside the Loop," you mean 22 inside of the -- Interstate 610, correct? The area of 23 Houston that's inside of Interstate 610; is that 24 right? 25 A. Yes. And I believe that's correct. I may be</p>	<p style="text-align: right;">219</p> <p>1 people who kind of try to live independently. There 2 are a lot of disabled people who try to live on their 3 own. 4 Q. (BY MS. CONLEY) So it seems -- it seems to 5 me, based on everything that we've discussed today and 6 then looking at these e-mails, that you greatly 7 consider the burden that disabled individuals may face 8 in trying to obtain a photo ID; is that accurate? 9 A. Please repeat the question. 10 MS. CONLEY: Could you read that back? 11 THE REPORTER: "So it seems -- it seems 12 to me based on everything that we've discussed today 13 and then looking at these e-mails, that you greatly 14 consider the burden that disabled individuals may face 15 in trying to obtain a photo ID; is that accurate?" 16 A. Well, no, if the -- if the word "greatly 17 considered." But obviously, I considered it. 18 Q. (BY MS. CONLEY) And you were persuaded that 19 certain individuals, specifically disabled 20 individuals, could face burdens in obtaining a photo 21 ID, and that was a problem that you wanted to remedy; 22 is that -- is that right? 23 A. I think that my testimony and my documents 24 and the amendment speak for themselves. 25 Q. And so did you consider the burden of</p>
<p style="text-align: right;">218</p> <p>1 incorrect, and we may have opened one since then, but 2 I -- at the time, I believe that was correct. 3 Q. But at this time there were no DPS locations 4 in the Loop? 5 A. I believe it. 6 Q. Okay. So is it fair to say that at this time 7 in your view, the lack of DPS offices in some counties 8 and the lack of DPS offices inside the Loop would 9 impose an undue burden on disabled individuals who 10 needed to travel longer distances to obtain a photo 11 ID? 12 MR. CLAY: Objection. Form. 13 MS. DONNELLY: Join it. 14 A. I think the document speaks for itself. I 15 think the document's pretty clear. 16 Q. (BY MS. CONLEY) At the time you wrote this 17 e-mail, it was your view that the lack of DPS offices 18 inside the Loop could pose a burden -- an undue burden 19 on disabled individuals -- 20 MS. DONNELLY: Objection. 21 Q. (BY MS. CONLEY) -- right? 22 MS. DONNELLY: Objection. Form. 23 Go ahead. 24 A. It could impose a burden on people who have a 25 significant disability who otherwise, in my view, are</p>	<p style="text-align: right;">220</p> <p>1 obtaining a photo ID that would fall on any groups 2 other than the disabled? 3 A. No, because I didn't see it as a great burden 4 for a great number of people or a burden for a 5 significant number of people. As I've testified 6 before, and I don't mind repeating: We live in a 7 society where many people are required to have a photo 8 ID for -- for a variety of things. 9 I mean, you know, the federal government, for 10 example, has decided you have to have a legal photo ID 11 to get on an airplane; even people who live in remote 12 rural areas, even people who are poor, even -- you 13 know, people who fall into all categories, actually 14 including people with disabilities. 15 So I did not see it as an undue burden for 16 able-bodied people, regardless of their economic 17 status. 18 Q. Would you agree that many poor people don't 19 ever get on an airplane? 20 MS. DONNELLY: Objection. Form. 21 A. I have no idea about that. 22 Q. (BY MS. CONLEY) Would you agree that there 23 are forms of identification that you can use to get on 24 an airplane that you could not use to vote under 25 SB 14?</p>

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<p style="text-align: right;">221</p> <p>1 A. I don't know what TSA today requires, in 2 terms of -- I mean, I don't know how they match up 3 with ours. I don't know what you can use for an ID. 4 Q. Okay. But is it your testimony, sitting 5 here, that you think that the only forms of ID that 6 can be used to get on an airplane are the same forms 7 of ID that are required under SB 14? 8 MS. DONNELLY: Objection. 9 A. Yeah, I didn't say that. I was just giving 10 you the example that the federal government doesn't 11 let you get on an airplane without a form of ID that 12 they consider appropriate. 13 Q. (BY MS. CONLEY) That's right. And if I -- I 14 guess my question to you is: Hypothetically, if you 15 could get on an airplane with 40 different forms of 16 photo ID, yet SB 14 only allows 7, is that a fair 17 comparison that you're drawing? 18 MS. DONNELLY: Objection. The 19 question's confusing, compound -- 20 MS. CONLEY: Well, wait. 21 MS. DONNELLY: Can you break it down? 22 MS. CONLEY: Just -- just for the 23 record, I don't mind an objection; but a speaking 24 objection, trying to get the witness to, you know, 25 say, "Yes, it's confusing," I think that's improper.</p>	<p style="text-align: right;">223</p> <p>1 your understanding? 2 A. You -- if that's what the TSA rules are, 3 that's your knowledge, that's not my knowledge. 4 Q. So I want to go back to something that you 5 said in response to my question a few questions ago, 6 and I believe it was your testimony that you didn't 7 think -- other than the disabled population, that you 8 didn't that there were burdens that were imposed on 9 other groups of people; is that right? 10 A. Correct. 11 Q. And so does that mean that you actually 12 considered other groups of people, and then said after 13 that consideration, "I don't think that these groups 14 of people are particularly burdened by this law"? 15 A. If you look at what the bill said, and my 16 vote for the bill, you could reach that conclusion. 17 Q. But I guess I'm asking you what you did. 18 Because your testimony was that you thought about 19 other groups of people and thought that the law didn't 20 burden them. 21 And so my question is: In the process of 22 drafting and considering the bill, did you actually go 23 through groups of people and say, "No, I don't think 24 the law burdens this group of people"? 25 MS. DONNELLY: Objection. He didn't</p>
<p style="text-align: right;">222</p> <p>1 Q. (BY MS. CONLEY) If you didn't understand my 2 question, I'm happy to rephrase it, to have the court 3 reporter read it back, but let's try and not do the 4 speaking objections. 5 MS. DONNELLY: Do you understand the 6 question? 7 A. It would be helpful if you broke it down. 8 MS. CONLEY: Okay. Can you read it back 9 for me? Because now I've forgotten it. I'm happy to 10 rephrase it, but I need to know what it was. Thank 11 you. 12 THE REPORTER: "That's right. And if 13 I -- I guess my question to you is: Hypothetically, 14 if you could get on an airplane with 40 different 15 forms of photo ID, yet SB 14 only allows 7, is that a 16 fair comparison that you're drawing?" 17 MS. DONNELLY: Objection. Form. 18 You can answer if you can. 19 A. I don't particularly like answering 20 hypotheticals. You've asked me the question. I don't 21 think they compare. I don't think they compare. 22 Q. (BY MS. CONLEY) Well, I'll tell you this: 23 For example, I can use a student ID to get on an 24 airplane, but I can't use a student ID if I'm a Texas 25 resident trying to vote in a Texas election. Is that</p>	<p style="text-align: right;">224</p> <p>1 draft it. 2 But go ahead. 3 A. I'm sure I went through that mental process 4 because I'm a fair-minded person and I try to do the 5 right thing on behalf of all people, and walked 6 through that exercise and made that conclusion. 7 Q. (BY MS. CONLEY) Did you -- the exercise that 8 you performed in your mind, did that exercise ever 9 pertain to low-income people in Texas? 10 A. It would have pertained to everyone in Texas. 11 Q. So in considering SB 14, you considered the 12 burden or potential burden on low-income voters living 13 in one of the 77 counties without a DPS? 14 A. I considered. And you're using the word 15 "burden," so I choose not to use that word. 16 Q. Or lack thereof? 17 A. Or lack thereof. I asked myself, is this a 18 reasonable request to protect the integrity of the 19 ballot box by able-bodied people living across Texas, 20 and the conclusion was obviously yes. 21 Q. And that conclusion was regardless of whether 22 or not those able-bodied individuals were living below 23 the poverty line? 24 A. We have -- yes. We have -- based on your 25 data of the percentage of people who earn below 35,000</p>

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<p style="text-align: right;">225</p> <p>1 a year, based on the number of people who vote, a</p> <p>2 minority community, as was established earlier,</p> <p>3 that -- by your counsel -- that vote for Democrats, it</p> <p>4 would be very, I think, safe to say that hundreds of</p> <p>5 thousands of poor voters vote. So I did not see -- so</p> <p>6 I considered everyone. I didn't consider this to be</p> <p>7 an obstacle or an unreasonable request.</p> <p>8 Q. Did you or any of your staff ever conduct any</p> <p>9 analysis as to whether or not SB 14 would have an</p> <p>10 impact on low-income voters?</p> <p>11 MS. DONNELLY: Asked and answered.</p> <p>12 You can answer again.</p> <p>13 A. Yeah, I think I've already answered that. I</p> <p>14 think I've had eight or nine questions on that earlier</p> <p>15 today.</p> <p>16 Q. (BY MS. CONLEY) I'm sorry.</p> <p>17 A. That's okay.</p> <p>18 Not to my knowledge.</p> <p>19 Q. Not to your knowledge?</p> <p>20 A. I don't recall.</p> <p>21 Q. And you don't --</p> <p>22 A. I don't think we did.</p> <p>23 Q. And you don't recall whether any of your</p> <p>24 colleagues in the Senate performed such an analysis?</p> <p>25 A. Yeah, I don't recall.</p>	<p style="text-align: right;">227</p> <p>1 in my district, unincorporated Harris County, do</p> <p>2 choose to live there for a variety of reasons --</p> <p>3 school districts, less traffic. Although, there is a</p> <p>4 lot of traffic. And so I don't think people move to</p> <p>5 the suburbs without a way to get to the grocery store.</p> <p>6 So I didn't think it was an undue burden, or</p> <p>7 any burden, on anyone living in an area that doesn't</p> <p>8 have public transportation and might be 10 miles or 12</p> <p>9 miles from a DPS, to be able to get transportation to</p> <p>10 go there.</p> <p>11 Again, I just don't buy into the concept that</p> <p>12 people who live in the suburbs, or even in somewhat</p> <p>13 rural Texas, move into a place and say goodbye to</p> <p>14 everyone after the moving truck leaves and never plan</p> <p>15 to go out anywhere even if they don't own a car. I</p> <p>16 just -- so that's my response.</p> <p>17 Q. And that's your -- this is your personal</p> <p>18 consideration and --</p> <p>19 A. That's my personal consideration --</p> <p>20 Q. -- judgment, correct?</p> <p>21 A. -- judgment, correct.</p> <p>22 Q. And it's not based on any sort of analysis</p> <p>23 that you or anyone in the Senate conducted in</p> <p>24 considering SB 14; is that right?</p> <p>25 A. I can't speak for other people. But for me,</p>
<p style="text-align: right;">226</p> <p>1 Q. Do you know whether anyone considered DPS</p> <p>2 locations when drafting or considering or debating</p> <p>3 SB 14?</p> <p>4 A. I don't know.</p> <p>5 Q. Did you or anyone on your staff consider</p> <p>6 whether -- or consider how long it would take for</p> <p>7 someone without a driver's license to get to a DPS</p> <p>8 location?</p> <p>9 A. I don't recall.</p> <p>10 Q. You don't recall. Well, I believe you</p> <p>11 testified earlier that the majority of people in your</p> <p>12 district couldn't get to a DPS by public transit; is</p> <p>13 that right?</p> <p>14 A. To my -- that would be a best guesstimate,</p> <p>15 based on my knowledge of the fact that we don't have</p> <p>16 public transportation in much of my district.</p> <p>17 Q. And was that a consideration at all when you</p> <p>18 were considering SB 14?</p> <p>19 A. Only in the context of, based on my answer</p> <p>20 before, that I believe -- as I stated earlier today,</p> <p>21 hours ago -- that people who live in my</p> <p>22 district -- and it's not a poor district, but it's not</p> <p>23 a super-wealthy district. It's an average,</p> <p>24 middle-class district.</p> <p>25 I do think that most of the people who live</p>	<p style="text-align: right;">228</p> <p>1 I just kind of logically walked through the steps of</p> <p>2 wherever someone might live in Texas, if they were</p> <p>3 able-bodied, whether they were poor, middle class,</p> <p>4 or -- or otherwise, and I came to that conclusion.</p> <p>5 And as I also testified earlier: Three years</p> <p>6 after the bill has been passed, and multiple</p> <p>7 elections, there's just no evidence -- and I know this</p> <p>8 is all about evidence -- I don't think there's any</p> <p>9 evidence, any significant evidence, of any large</p> <p>10 number of people -- or anyone at all -- who has said</p> <p>11 this is an issue. We just haven't heard it.</p> <p>12 And so I think the process that at least I</p> <p>13 went through, and the decision that I made, turned out</p> <p>14 to be proven to be correct.</p> <p>15 And, again, as I said earlier, I haven't had</p> <p>16 a -- and we have Democrats from the inner city and</p> <p>17 rural areas all over the state. I work very well with</p> <p>18 them. They work very well with me. I've not had one</p> <p>19 come to me and say, "Dan, we need to fix this."</p> <p>20 And I'm not aware of any legislation to</p> <p>21 address any of these issues that you bring up; which,</p> <p>22 I respect you bring them up, but I just don't think</p> <p>23 there's any -- there's just nothing here that you can</p> <p>24 point to. So I believe we were good. I think we were</p> <p>25 right.</p>

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<p style="text-align: right;">229</p> <p>1 Q. But, Senator, you're basing that on the</p> <p>2 notion that no one's approached you personally and has</p> <p>3 said "This is a problem for me"; is that right?</p> <p>4 A. I base that on no one's approached me,</p> <p>5 personally, that I can recall; that no Democrat</p> <p>6 senator or House member has approached me, that I</p> <p>7 haven't read any media reports.</p> <p>8 I just -- I just haven't -- I'm just not</p> <p>9 aware of anything of significance. You can always</p> <p>10 have an outlier somewhere. Again, I do remember there</p> <p>11 was a story, some person complaining because -- that</p> <p>12 she left it at home.</p> <p>13 Q. And for you, the D.C. District Court's</p> <p>14 opinion in this Section 5 litigation in which they</p> <p>15 found that there was a significant burden on poor</p> <p>16 people, who were disproportionately people of color,</p> <p>17 that doesn't count?</p> <p>18 MR. CLAY: Objection. Form.</p> <p>19 MS. DONNELLY: Objection.</p> <p>20 Argumentative.</p> <p>21 MR. CLAY: Foundation, too.</p> <p>22 A. And this was asked and answered before. And</p> <p>23 my answer, I think, was, I'm more concerned about what</p> <p>24 the people of Texas say and what my colleagues on the</p> <p>25 other side of the aisle say, than I am the D.C. court.</p>	<p style="text-align: right;">231</p> <p>1 A. I didn't remember that.</p> <p>2 Q. Very sorry.</p> <p>3 A. Okay. No, that's fine.</p> <p>4 MS. CONLEY: Thank you, Anna, very much,</p> <p>5 for clearing up the record there.</p> <p>6 Q. (BY MS. CONLEY) And so you know what that is?</p> <p>7 A. Now that you remind me, yes.</p> <p>8 Q. Okay. And so do you know whether during the</p> <p>9 consideration of SB 14 there was any analysis done</p> <p>10 regarding the cost that a registered voter would incur</p> <p>11 to obtain an EIC?</p> <p>12 A. I don't. I don't recall. And -- well, I</p> <p>13 shouldn't be asking you questions.</p> <p>14 You're saying, we added that to the bill?</p> <p>15 Q. The EIC -- what I'm saying is that the EIC is</p> <p>16 a part -- it's a part of SB 14.</p> <p>17 A. It's part of the bill.</p> <p>18 Q. Yes.</p> <p>19 A. Okay. Yes.</p> <p>20 Q. But you don't recall any analysis being done</p> <p>21 as to the cost that someone may incur in order to</p> <p>22 obtain --</p> <p>23 A. Since I --</p> <p>24 Q. -- that ID?</p> <p>25 A. -- didn't recall the EIC, I don't recall the</p>
<p style="text-align: right;">230</p> <p>1 Q. (BY MS. CONLEY) So --</p> <p>2 A. Obviously, I respect their -- their opinion,</p> <p>3 but -- but it doesn't impact my thinking.</p> <p>4 Q. Okay. So, Senator, what was the purpose of</p> <p>5 the provision that was added to SB 14 to provide for</p> <p>6 an EIC, the electronic identification certificate?</p> <p>7 A. You're going to have to refresh my memory of</p> <p>8 what that's all about.</p> <p>9 Q. First, do you know what the EIC is?</p> <p>10 A. No, I don't recall right now.</p> <p>11 Q. I can represent to you, just so that we can</p> <p>12 save time and not have to go back to the bill --</p> <p>13 A. Sure.</p> <p>14 Q. -- but the EIC, the electronic identification</p> <p>15 certificate -- or sorry. Sorry. That's the problem.</p> <p>16 That's why you don't understand what I'm saying, I'm</p> <p>17 saying the wrong thing.</p> <p>18 Election identification certificate.</p> <p>19 A. Okay. I'm still not -- you'll have to</p> <p>20 refresh my memory on that.</p> <p>21 Q. It's the purportedly free ID.</p> <p>22 A. Okay. That you get from DPS.</p> <p>23 Q. That you can get from DPS.</p> <p>24 A. That's what it's called. Okay.</p> <p>25 Q. Yes, the EIC.</p>	<p style="text-align: right;">232</p> <p>1 details.</p> <p>2 Q. Okay. So just to go back: You've recognized</p> <p>3 that there's at least some segment of the population</p> <p>4 that could face undue burdens in obtaining even a free</p> <p>5 photo ID, correct?</p> <p>6 MR. CLAY: Objection.</p> <p>7 MS. DONNELLY: Objection. Form.</p> <p>8 Mischaracterizes testimony.</p> <p>9 A. Yeah, you're characterizing that.</p> <p>10 I want to go back and -- and respectfully</p> <p>11 answer this for the multiple -- you know, I don't know</p> <p>12 how many times.</p> <p>13 I simply thought it was the right thing to</p> <p>14 do -- to give people with significant disabilities an</p> <p>15 opportunity to vote without a photo ID, if they could</p> <p>16 get a letter from the doctor -- based on my life</p> <p>17 experiences of working with disabled, based on the</p> <p>18 Indiana bill, and based on I thought it was the right</p> <p>19 thing to do. It has no reflection on anything else or</p> <p>20 any other subgroup of people.</p> <p>21 Q. (BY MS. CONLEY) Do you think it would be the</p> <p>22 right thing to do for a poor person without</p> <p>23 transportation who didn't live close to a DPS?</p> <p>24 MS. DONNELLY: Objection. Form.</p> <p>25 A. And I've answered this before, that I believe</p>

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<p style="text-align: right;">233</p> <p>1 that able-bodied people have an opportunity, even if</p> <p>2 they're poor, to -- and they don't own a car, that</p> <p>3 someone can take them to get their free ID; for the</p> <p>4 few people, the small percentage of people, who may</p> <p>5 not have any form of ID, whether it be a driver's</p> <p>6 license, passport, military, or CHL, or the other</p> <p>7 ones.</p> <p>8 Q. (BY MS. CONLEY) But, Senator, I --</p> <p>9 MS. DONNELLY: He needs to finish his</p> <p>10 answer.</p> <p>11 Q. (BY MS. CONLEY) Did you finish?</p> <p>12 A. I'm finished.</p> <p>13 Q. Okay. But -- I understand what you're</p> <p>14 saying, and what you said.</p> <p>15 However, was that even with respect to</p> <p>16 low-income people, that they had an opportunity?</p> <p>17 A. Right.</p> <p>18 Q. And my question for you is: Whether or not</p> <p>19 they have an opportunity is sort of a different</p> <p>20 question as to whether or not it poses a burden.</p> <p>21 Wouldn't you agree that those are two</p> <p>22 different questions?</p> <p>23 A. Not necessarily. I -- if you have the</p> <p>24 opportunity to get a free ID, as you've just phrased</p> <p>25 it, then it's not a burden.</p>	<p style="text-align: right;">235</p> <p>1 A. Sure.</p> <p>2 Q. -- which is: I believe what I'm hearing you</p> <p>3 say is that there's no difference between a person who</p> <p>4 has a car and lives close to a DPS and any burdens</p> <p>5 that they would experience in going to get the photo</p> <p>6 ID; from a person who doesn't have a car, who does not</p> <p>7 live near a DPS, and then going to get a photo ID.</p> <p>8 What you're saying is those two people are</p> <p>9 equal; is that right?</p> <p>10 MS. DONNELLY: Objection. Form.</p> <p>11 Argumentative.</p> <p>12 Q. (BY MS. CONLEY) I just want to understand.</p> <p>13 A. I think you're mischaracterizing my comments.</p> <p>14 First of all, if you have a car and you can</p> <p>15 go to the DPS to get a free ID, you don't need to go</p> <p>16 to the DPS to get a free ID because you have a</p> <p>17 driver's license; so, obviously, there could be a</p> <p>18 difference.</p> <p>19 If a poor person -- not poor. A person</p> <p>20 without a car, then maybe they don't have it, so there</p> <p>21 could be that difference. Maybe they don't have a</p> <p>22 driver's license.</p> <p>23 You can ask me all day long and we can take</p> <p>24 all full seven hours, plus stoppage time.</p> <p>25 My belief is, if you're an able-bodied</p>
<p style="text-align: right;">234</p> <p>1 Q. If you have a -- so it's your testimony,</p> <p>2 sitting here today, that if you have an opportunity to</p> <p>3 get a free ID it's not a burden?</p> <p>4 A. My testimony is: I believe every able-bodied</p> <p>5 person, regardless of their income level, can acquire</p> <p>6 a free ID if they don't have one already.</p> <p>7 Q. Would you say that it would be easier for a</p> <p>8 person who has a car and who lives close to a DPS to</p> <p>9 go obtain a photo ID than someone who does not have a</p> <p>10 car and who does not live close to a DPS?</p> <p>11 MS. DONNELLY: Objection. Form.</p> <p>12 A. Is it easier for someone who has a car to go</p> <p>13 to the grocery store or the mall than it is for</p> <p>14 someone who doesn't have a car to go to the grocery</p> <p>15 store or the mall? I -- I don't think it's any more</p> <p>16 difficult for a person. Maybe they can't do it the</p> <p>17 precise day and precise time that they'd like to go to</p> <p>18 the store or go to DPS.</p> <p>19 But I believe, again, that you're greatly</p> <p>20 underestimating the wherewithal and the ability of</p> <p>21 even poor people to find a means of transportation to</p> <p>22 get to where they need to go if they want to go.</p> <p>23 Q. (BY MS. CONLEY) Senator, I actually don't</p> <p>24 think that I am, but let me ask just my question</p> <p>25 here --</p>	<p style="text-align: right;">236</p> <p>1 person, regardless of your income status, if you have</p> <p>2 a desire and you need to because you don't have any</p> <p>3 other ID, that you can get</p> <p>4 a -- that it is not a burden to help shore up the</p> <p>5 integrity of our ballot box, which is what our country</p> <p>6 is based upon, the integrity of a ballot box, for all</p> <p>7 of us, regardless of party. I believe it is not a</p> <p>8 burden to ask an able-bodied person to do so.</p> <p>9 Q. And that's based on your own personal</p> <p>10 judgment and not anything else; is that right?</p> <p>11 MS. DONNELLY: Objection. Form.</p> <p>12 A. It's based on -- well, I voted for the bill,</p> <p>13 so there you go.</p> <p>14 (Discussion off the record.)</p> <p>15 Q. (BY MS. CONLEY) So as we discussed in</p> <p>16 corresponding with Mr. Bettencourt in this e-mail, you</p> <p>17 specifically mention that there are no DPS locations</p> <p>18 in the Loop, right?</p> <p>19 A. I believe that that was correct at the time.</p> <p>20 I may have been incorrect. But I believe if I wrote</p> <p>21 that, I assume that was correct.</p> <p>22 Q. Okay. Did you conduct any analysis of the</p> <p>23 racial demographic of the voters who live in the Loop?</p> <p>24 A. No.</p> <p>25 Q. Did you conduct a -- any analysis of the</p>

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<p style="text-align: right;">237</p> <p>1 racial demographic of voters who work in the Loop?</p> <p>2 A. No.</p> <p>3 Q. Are you aware what hours DPS locations in</p> <p>4 Texas are open?</p> <p>5 A. No.</p> <p>6 Q. No?</p> <p>7 A. No.</p> <p>8 Q. Is that something that you considered when</p> <p>9 evaluating SB 14?</p> <p>10 A. I don't recall.</p> <p>11 Q. Do you think it would impose a burden on an</p> <p>12 individual who works business hours if a DPS location</p> <p>13 is only open during business hours?</p> <p>14 A. It obviously doesn't place a burden on people</p> <p>15 to go get a driver's license during the hours that DPS</p> <p>16 is open. Otherwise, if it did, we would hear enough</p> <p>17 public complaint and there would be some response to</p> <p>18 it. But people find a way, even though they work, to</p> <p>19 obviously go to DPS for whatever reason they may have</p> <p>20 to have, registration or license. So it's not a</p> <p>21 consideration, as I recall.</p> <p>22 MS. CONLEY: All right. We can take a</p> <p>23 quick break.</p> <p>24 (Break.)</p> <p>25 Q. (BY MS. CONLEY) If you would just take a look</p>	<p style="text-align: right;">239</p> <p>1 someone wanted to circumvent the law, that my</p> <p>2 amendment was not going to allow people to go out</p> <p>3 there and get 100,000 placards and give them to people</p> <p>4 so they didn't have to use a photo. I think that's</p> <p>5 what I was suggesting.</p> <p>6 Q. So even under your amendment, there would be</p> <p>7 people who were disabled who still might not be able</p> <p>8 to vote?</p> <p>9 A. No.</p> <p>10 Q. When you say "No large groups are going to</p> <p>11 try to take advantage of this exemption," you're</p> <p>12 saying that not a large group of disabled people are</p> <p>13 going to use that exemption --</p> <p>14 MS. DONNELLY: Objection.</p> <p>15 Mischaracterizes testimony.</p> <p>16 Q. (BY MS. CONLEY) -- correct?</p> <p>17 A. No, I don't think that's -- I don't think you</p> <p>18 understood me, or I'm not understanding you.</p> <p>19 Q. (BY MS. CONLEY) Okay. We can move on.</p> <p>20 In your last paragraph of the e-mail on page</p> <p>21 2, the last sentence is: "Let's not sacrifice a very</p> <p>22 good bill for perfect-especially if perfect for some</p> <p>23 gets us thrown out by the courts."</p> <p>24 And what did you -- what did you mean by this?</p> <p>25 A. This is commonplace for a Republican or a</p>
<p style="text-align: right;">238</p> <p>1 at the same document we've been looking at, the 258</p> <p>2 e-mail from you to Paul Bettencourt.</p> <p>3 A. All right.</p> <p>4 Q. And on the first page, in that third</p> <p>5 paragraph, you say: "For a disabled person to get an</p> <p>6 exemption from voting in person without a photo they</p> <p>7 must send in a letter from a doctor to the voting</p> <p>8 registrar and sign, subject to perjury, that they are</p> <p>9 disabled. No large groups are going to try to take</p> <p>10 advantage of this exemption."</p> <p>11 A. Right.</p> <p>12 Q. What did you mean by that last sentence?</p> <p>13 A. Pretty much what it said, that if there</p> <p>14 were -- if there -- if there was any group attempting</p> <p>15 to have people vote illegal, if there -- if there was,</p> <p>16 this would not be a loophole for them to use. I think</p> <p>17 that's what I meant by it, probably.</p> <p>18 Q. So when you said "No large groups are going</p> <p>19 to try to take advantage of this exemption" --</p> <p>20 A. Right.</p> <p>21 Q. -- were you -- were you pointing to that as a</p> <p>22 selling point?</p> <p>23 A. No, not necessarily. I was just -- I was</p> <p>24 just -- just -- it was really a reflection of this</p> <p>25 idea that 500,000 people had placards; and that if</p>	<p style="text-align: right;">240</p> <p>1 Democrat officeholder that very often Democrats will</p> <p>2 have constituents who don't think their bill is</p> <p>3 perfect in their view. So, heaven forbid, don't --</p> <p>4 don't let the Republicans pull this one over on you.</p> <p>5 And -- and Republicans, we have constituents</p> <p>6 who will often call up and say, "Don't let the</p> <p>7 Democrats pull this over on you; you need to do this,</p> <p>8 this, this, and this." It happens on a lot of</p> <p>9 legislation for all of us, in both parties.</p> <p>10 And so my point was, that there were people,</p> <p>11 apparently, who were contacting my office and all</p> <p>12 upset about we shouldn't have this amendment or</p> <p>13 placards, or whatever.</p> <p>14 And that was my point: Look, this is a good</p> <p>15 amendment, it was part of the Indiana bill, the courts</p> <p>16 upheld the Indiana bill, let's not sacrifice this</p> <p>17 important legislation because a -- you know, a handful</p> <p>18 of people don't think it's perfect.</p> <p>19 Q. Okay. But not because you didn't think it</p> <p>20 was perfect?</p> <p>21 MS. DONNELLY: Object to the form of the</p> <p>22 question.</p> <p>23 A. Give me a question.</p> <p>24 Q. (BY MS. CONLEY) Let me rephrase that. What I</p> <p>25 guess I want to know: For you, were you saying here</p>

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<p style="text-align: right;">241</p> <p>1 that the bill would have been perfect if it didn't</p> <p>2 include the disability amendment?</p> <p>3 A. No. No, I don't -- no. What I -- what I</p> <p>4 was -- what I was attempting to say -- maybe I didn't</p> <p>5 say it artfully. I thought it was a very good bill.</p> <p>6 But if we try to please every person in our</p> <p>7 constituency on every piece of legislation so that</p> <p>8 the -- in the eye of the beholder, that person gets</p> <p>9 the perfect bill, then we will never pass anything.</p> <p>10 And the Democrats have the same problems on</p> <p>11 their side. That's why Washington is in gridlock and</p> <p>12 why sometimes Austin's in gridlock.</p> <p>13 Q. And you referred to -- again, in your last</p> <p>14 answer, the Indiana law?</p> <p>15 A. Yeah.</p> <p>16 Q. And I think on the first page of this e-mail,</p> <p>17 you say: "Our bill is similar to the Indiana law that</p> <p>18 was approved by the courts."</p> <p>19 And so are you familiar with the photo ID law</p> <p>20 in Indiana?</p> <p>21 A. You know, I'm not today. I'm -- I'm -- I</p> <p>22 obviously was at some level in the past.</p> <p>23 Q. So at the time you wrote this e-mail you were</p> <p>24 familiar with the photo ID law in Indiana?</p> <p>25 A. Apparently, at some level.</p>	<p style="text-align: right;">243</p> <p>1 Q. So are you familiar with the valid forms of</p> <p>2 identification under the Indiana photo ID law?</p> <p>3 A. I'm not.</p> <p>4 Q. At the time that you wrote this e-mail, were</p> <p>5 you familiar with the valid forms of identification</p> <p>6 under the Indiana photo ID law?</p> <p>7 A. I may or may not have been. I don't recall.</p> <p>8 Q. Well, would it surprise you that student IDs</p> <p>9 from public universities and colleges are valid under</p> <p>10 Indiana's photo ID law?</p> <p>11 A. If that's what it -- I don't know if it would</p> <p>12 surprise me or not. If that's what the Indiana law</p> <p>13 is, then it is just different.</p> <p>14 And while we may try and style our bills,</p> <p>15 whatever subject it may be on, it doesn't mean we --</p> <p>16 we copy exactly what another state does. And very --</p> <p>17 you know, very often, people copy what we do in Texas</p> <p>18 and they may not copy it exactly. So if that's their</p> <p>19 law, that's their law.</p> <p>20 Q. So, but you did use -- you testified earlier</p> <p>21 that you did use the Indiana law as a model, of sorts,</p> <p>22 which is what gave you the idea for the disability</p> <p>23 amendment, right?</p> <p>24 MS. DONNELLY: Objection. Form.</p> <p>25 A. I'm not suggesting that I used it, because I</p>
<p style="text-align: right;">242</p> <p>1 Q. And did you think that it was important that</p> <p>2 SB 14 be similar to the photo ID law in Indiana?</p> <p>3 A. Well, when we write legislation, particularly</p> <p>4 on issues that we know are going to be litigated --</p> <p>5 and there's always a group of bills you know are going</p> <p>6 to be -- more than likely to be litigated; we surely</p> <p>7 knew this one probably would be -- that you do look at</p> <p>8 what other states do.</p> <p>9 And whether -- again, whether it's Democrat</p> <p>10 legislation or -- it's not a partisan thing. You look</p> <p>11 at what other states do and see what survived the</p> <p>12 courts, you know, and -- and so you use that. At</p> <p>13 least I do, personally.</p> <p>14 Whether I'm voting for a bill or supporting a</p> <p>15 bill or crafting a bill, you know, I do look at what</p> <p>16 other states have done and what the courts have said</p> <p>17 at some level to give me some level of confidence; if</p> <p>18 I do this, you know, it should -- it should pass</p> <p>19 muster; and if I do this, I'm going to put all this</p> <p>20 work in and it could likely be thrown out.</p> <p>21 Because, none of us want to put -- you know,</p> <p>22 to pass a bill -- forget the session. You're working</p> <p>23 on it months and sometimes years in advance. You</p> <p>24 don't want to pass a bill only to go to the courts and</p> <p>25 have it thrown out.</p>	<p style="text-align: right;">244</p> <p>1 didn't write the bill. But I think, in general -- and</p> <p>2 I can't speak for the true author of the bill, Senator</p> <p>3 Fraser. But I do believe, in general, maybe</p> <p>4 there -- maybe there was discussion on the Senate</p> <p>5 floor -- I mean, I just don't know -- that there was a</p> <p>6 sense of, this bill is crafted similar to the Indiana</p> <p>7 bill, is all I -- that's all I kind of recall.</p> <p>8 Q. (BY MS. CONLEY) Were you aware that any photo</p> <p>9 ID issued by the United States government is valid</p> <p>10 under Indiana's photo ID law?</p> <p>11 A. You know, I -- I'm trying to be polite. I</p> <p>12 have no knowledge of the Indiana, so we can save time</p> <p>13 if you want.</p> <p>14 Q. That was my question.</p> <p>15 A. Okay.</p> <p>16 Q. So thank you.</p> <p>17 A. Okay.</p> <p>18 Q. Finally, and I promise we can put this e-mail</p> <p>19 to rest --</p> <p>20 A. Okay. I'm good.</p> <p>21 Q. -- we can put this e-mail to rest after this</p> <p>22 last question.</p> <p>23 A. I'm fine.</p> <p>24 Q. You -- at the very end, the second to the</p> <p>25 last sentence, you note that this -- "Let's celebrate</p>

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<p style="text-align: right;">245</p> <p>1 a big victory one of the best photo voter ID bills in 2 the country..."</p> <p>3 And I'm just curious, what did you -- what 4 did you mean by that?</p> <p>5 A. Well, we had -- I think an original bill had 6 been attempted in 2007. We tried it in 2009, 2011. 7 It was important to our constituents. It was 8 important to all Texans. It was important to 9 everyone.</p> <p>10 And so anytime you work years on something 11 and you feel like you've accomplished it and -- so 12 it's just, you know, let's celebrate a victory and 13 let's -- you know, let's move on and let's not 14 complain, because it wasn't perfect in the eyes 15 of some.</p> <p>16 Q. But what makes it one of the -- you noted 17 that it was one of the best in the country. What do 18 you think made it one of the best photo ID bills in 19 the country?</p> <p>20 A. Well, I've worked on a lot of legislation 21 where it's taken me two or three -- I've only been 22 there four sessions, but it's taken me two or three 23 sessions to pass a bill. And usually, over time, the 24 bills get better because over time you just get 25 more -- very often, more knowledge, more input, more</p>	<p style="text-align: right;">247</p> <p>1 And I think we were thoughtful in the 2 deliberation of it and -- and I actually thought, and 3 I -- and I seem to recall Democrats saying at the time 4 that we had a very respectful 24- or 26-hour debate on 5 the floor. There was no acrimony. There was no -- it 6 was -- it was a very healthy, good discussion of the 7 issue and so that's, you know, what -- how I felt 8 about it.</p> <p>9 Q. So moving on very briefly to -- you and 10 Ms. Baldwin looked at some of the amendments, and I 11 believe that was Exhibit 5, the Senate Journal, and --</p> <p>12 A. That's it.</p> <p>13 Q. -- do you recall that an amendment was 14 offered that would have permitted the use of student 15 IDs containing a person's photograph as a permissible 16 ID for purposes of voting?</p> <p>17 A. I think we covered that earlier. Didn't we?</p> <p>18 Q. I'm not sure that we did.</p> <p>19 A. Okay. Well, then I don't know then. Maybe 20 we've just been talking about it.</p> <p>21 Q. Yeah. Maybe take a look at page 123. It's 22 Amendment 19.</p> <p>23 A. All right.</p> <p>24 Q. Does that refresh your recollection?</p> <p>25 A. Amendment -- which one was it?</p>
<p style="text-align: right;">246</p> <p>1 buy-in from people.</p> <p>2 And -- and so, you know, I think by the time 3 we got to 2011, based on, again, this -- I don't 4 remember all the details of Indiana, but maybe there 5 had been some court cases that had been resolved or 6 addressed from '07 to '11. I don't remember. But I 7 just -- I think by then we probably had a better bill 8 than we had before, and that happens -- happens often.</p> <p>9 And, you know, just because all the 10 Democrats -- we talked about voting along party lines 11 earlier. Just because all the Democrats voted against 12 it doesn't mean that -- you know, they may 13 have -- they may have thought that this bill's a 14 little bit better bill than before; because they've 15 worked, obviously, to try to improve it or amend it or 16 work with me. So I just think it was probably 17 a -- obviously they voted against it, but -- but --</p> <p>18 Q. And did you think it was better than other 19 photo ID bills in the country because it was more 20 restrictive?</p> <p>21 A. No. I just -- no. I just thought it was 22 a -- I thought it was a -- it was a well thought-out 23 bill at the end of the day and -- and I didn't think 24 it was -- I didn't think it was undue burden, as I've 25 said many times.</p>	<p style="text-align: right;">248</p> <p>1 Q. 19.</p> <p>2 A. You said page 119, but what page --</p> <p>3 Q. I said page 123.</p> <p>4 A. I'm sorry.</p> <p>5 Q. Sorry. Amendment 119.</p> <p>6 A. My mistake. Okay.</p> <p>7 Q. How did you vote on this amendment?</p> <p>8 A. Against it.</p> <p>9 Q. Okay. And why?</p> <p>10 A. I think that the belief was that this does 11 not meet the criteria of a document issued by the 12 state that would be something that would be as 13 foolproof as a driver's license or CHL or a military 14 document or passport.</p> <p>15 We have -- I think we have 36 public 16 universities in the state, countless private 17 universities, countless community colleges. And when 18 you go to vote, it would have been -- it could have 19 been very confusing for the election judge or the 20 person working -- the poll workers, to have a plethora 21 of all these IDs. It's pretty clear now, it's -- 22 people can identify all these other ones.</p> <p>23 Q. And, Senator, military IDs are a form of IDs 24 that are permissible under SB 14, right?</p> <p>25 A. Correct.</p>

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<p style="text-align: right;">249</p> <p>1 Q. Do you know how many different forms of 2 military ID there are? 3 A. I don't. 4 Q. Do you know that there are several forms of 5 military IDs? 6 A. Well, I know there's several branches of the 7 service and -- 8 Q. Right. 9 A. But they're also government issued. I think 10 there was also a belief that a student ID could be -- 11 again, you could come up with a student ID. It 12 doesn't mean you live in the state. And there was 13 some concern of, could someone -- and maybe even 14 innocently, students voting incorrectly, so... 15 Q. And you could vote with a passport, but that 16 also doesn't show that you're a resident of the state, 17 correct? 18 A. But a passport is a government-issued 19 document. And a student -- you could argue a state 20 university is a government-related agency. 21 We just made the decision that we didn't 22 think that that was a document that -- that helped 23 ensure the integrity of the ballot box. And we also 24 believe that -- not all, of course -- but the vast 25 majority of students in college have a driver's</p>	<p style="text-align: right;">251</p> <p>1 they are able-bodied people and they can go to DPS and 2 get a free -- a free ID. 3 Q. But you don't know now, and you didn't know 4 then, the exact percentage of Texas students that 5 lacked a driver's license; is that right? 6 A. That is correct. 7 Q. Okay. And you mentioned that you and your 8 colleagues made the decision not to include student 9 IDs, you know, in furtherance of protecting the 10 integrity of the ballot box; is that right? 11 A. Uh-huh. 12 Q. Okay. So at the time that SB 14 was being 13 considered, were you aware of any facts or evidence 14 that suggested that student IDs had been used for 15 voting fraud in Texas? 16 A. I don't recall. We had -- we had a lot of 17 testimony, and I don't recall the various testimony on 18 the various bills. 19 Q. And do you recall whether there was any facts 20 or evidence presented that suggested that student IDs 21 had been used for voting fraud anywhere? 22 A. I don't recall. 23 Q. Sitting here today, are you aware of voter 24 fraud committed anywhere with student IDs? 25 A. I'm not aware today.</p>
<p style="text-align: right;">250</p> <p>1 license. Not all, but the vast majority. 2 Q. So to that point, were there any studies 3 conducted on the number of students that had a 4 driver's license? 5 A. There may have been or not. I don't know. 6 Q. So was -- was the -- was the number of Texas 7 students that had driver's licenses actually something 8 you considered while considering this amendment? 9 A. It was something that -- you know, that 10 occurred to me, that not all students would have a 11 driver's -- not all students would have a car. But 12 the vast majority -- not all -- but the vast majority 13 of college students over the age of 18 likely had a 14 driver's license. 15 Q. I guess my question for you is: Where are 16 you getting that information? Is that just based on a 17 general intuition? 18 A. Yeah. I don't -- I don't -- there may have 19 or may not have been. I don't know if there was any 20 research on that. But if you were to ask me today -- 21 if you were to go out on the street and ask a thousand 22 people, "Do you think the average student in college 23 over the age of 18 has a driver's license?", I think 24 most people would say, "Yeah, probably so." It 25 doesn't mean all of them did. But if they didn't,</p>	<p style="text-align: right;">252</p> <p>1 Q. Prior to the enactment of SB 14, did you or 2 any of your staff conduct any analysis on how many 3 registered voters have used student IDs to vote in 4 previous elections? 5 A. No, not that I'm aware of. Not that I 6 recall. 7 Q. Did you or any of your staff perform any 8 analysis on the effect of excluding student IDs on 9 student voter turnout? 10 A. No. 11 Q. Do you recall any discussion about that at 12 all, whether it would decrease student voter turnout? 13 A. I don't recall much -- as I testified earlier 14 today, I don't recall much of the discussions on, you 15 know, this bill. 16 Q. Are you aware of the racial makeup of the 17 student population in Texas? 18 A. Not specifically. 19 Q. Sorry. College and university student 20 population in Texas? 21 A. Not specifically. You know, I believe it's a 22 majority Anglo, but... 23 Q. And did you or any of your staff conduct any 24 analysis on the effect of excluding student IDs on 25 registered student voters at historically black</p>

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<p style="text-align: right;">253</p> <p>1 colleges and universities in Texas?</p> <p>2 A. No.</p> <p>3 Q. Any studies on how many students at</p> <p>4 historically black colleges and universities may lack</p> <p>5 driver's licenses?</p> <p>6 A. No, not that I recall. And, again, I -- I</p> <p>7 want to go back to something I've said throughout the</p> <p>8 day: We are the canary in the cave, if you know what</p> <p>9 that analogy means? We're the first to get the</p> <p>10 complaints. I don't know of any college students --</p> <p>11 it doesn't mean they haven't -- that have contacted me</p> <p>12 complaining they were not able to vote.</p> <p>13 Q. Well, I'll represent to you that we represent</p> <p>14 a college student, so there's that. She's a plaintiff</p> <p>15 in this lawsuit.</p> <p>16 A. I understand that, but --</p> <p>17 Q. I understand that -- I understand that your</p> <p>18 testimony is that no one has contacted you personally.</p> <p>19 A. Right. And we have not quite a million</p> <p>20 students in the state. And if one person had a</p> <p>21 complaint, I mean, that's -- that would be a small</p> <p>22 percentage of people. It doesn't mean she's -- you</p> <p>23 know, that she or he doesn't have a right to file a</p> <p>24 complaint. I'm just saying I'm not aware of it.</p> <p>25 There hasn't been any outpouring of students saying,</p>	<p style="text-align: right;">255</p> <p>1 go back home soon, and I represent the Veasey/LULAC</p> <p>2 plaintiffs.</p> <p>3 A. Okay.</p> <p>4 Q. And I'm going to try to ask you questions</p> <p>5 that you haven't been asked before, if there are any.</p> <p>6 So, first, I've given you some documents, I</p> <p>7 think six documents. And to speed things up, I'm</p> <p>8 going to tell you what I think they are and you tell</p> <p>9 me if that's about right.</p> <p>10 A. Okay.</p> <p>11 Q. These are all documents that came from you or</p> <p>12 your office, I believe, and they basically reflect</p> <p>13 your activity in voter ID laws since the 2007 session,</p> <p>14 your strong support of those laws and your, I'll say,</p> <p>15 instrumental role in those laws.</p> <p>16 A. Okay.</p> <p>17 Q. Is that about right?</p> <p>18 A. I'd have to go through them and look. And in</p> <p>19 the saving of time --</p> <p>20 Q. Okay.</p> <p>21 A. -- it appears, in general, that you're right.</p> <p>22 But -- but specifically if I have a question,</p> <p>23 we can go to them.</p> <p>24 Q. Okay.</p> <p>25 A. Is that fair?</p>
<p style="text-align: right;">254</p> <p>1 "My goodness, I couldn't vote."</p> <p>2 Q. To you?</p> <p>3 A. To me. And to my knowledge, I haven't heard</p> <p>4 it from any Democratic senator and I haven't heard it</p> <p>5 from any Republican senator.</p> <p>6 Q. Do you know whether any alternatives at all</p> <p>7 were considered to banning -- let me rephrase my</p> <p>8 question.</p> <p>9 Do you know if there were any alternatives at</p> <p>10 all considered to an outright ban on students IDs? In</p> <p>11 other words, were alternatives such as maybe putting</p> <p>12 expiration dates on the student IDs or any other</p> <p>13 alternatives considered?</p> <p>14 A. I don't recall. I don't recall.</p> <p>15 MS. CONLEY: Thank you. Passing the</p> <p>16 witness.</p> <p>17 MS. DONNELLY: And we're still under</p> <p>18 seal, correct?</p> <p>19 MR. DERFNER: Right.</p> <p>20 (Patrick Exhibits 12, 12A-12E</p> <p>21 marked/introduced.)</p> <p>22 E X A M I N A T I O N</p> <p>23 BY MR. DERFNER:</p> <p>24 Q. Senator Patrick, my name is Armand Derfner.</p> <p>25 I live in Charleston, South Carolina, where I hope to</p>	<p style="text-align: right;">256</p> <p>1 Q. And in a couple situations you also -- it</p> <p>2 reflects that you also saw that the procedural rules</p> <p>3 might have stood in the way of passage, and you took a</p> <p>4 particular interest in objecting to or possibly making</p> <p>5 changes in some of those procedural rules, like the</p> <p>6 two-thirds rule.</p> <p>7 A. If the documents reflect that here, it would</p> <p>8 not have been directly about photo voter ID. It would</p> <p>9 have been my general belief that we should have 19</p> <p>10 required as opposed to 21, because that would be about</p> <p>11 60 percent of the Senate, which would mirror the</p> <p>12 cloture vote in the U.S. Senate, in which there were</p> <p>13 extensive writings, as I recall. Maybe not extensive.</p> <p>14 But, writings from our founding fathers, on</p> <p>15 why they did not require a two-thirds vote for all</p> <p>16 bills in Congress.</p> <p>17 So -- so it had nothing to do specifically</p> <p>18 with voter ID. It's just my belief that two-thirds is</p> <p>19 too high of a threshold to pass every bill.</p> <p>20 Q. Okay. Are you going to try to get rid of the</p> <p>21 two-thirds rule if you're elected lieutenant governor?</p> <p>22 A. As lieutenant governor I don't have the power</p> <p>23 to do that. It's a Senate rule. The senators vote,</p> <p>24 31 senators, and I would -- I'm very consistent that I</p> <p>25 believe it should be 19. And it doesn't make any</p>

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<p style="text-align: right;">257</p> <p>1 difference, and I've said this on the record many</p> <p>2 times. If there were 20 Democrats and 11 Republicans,</p> <p>3 I'd believe the same thing.</p> <p>4 Q. Let me turn your attention to the last of</p> <p>5 those exhibits. I guess it would be 12E.</p> <p>6 A. Okay.</p> <p>7 Q. And that, I believe, refers to a town hall.</p> <p>8 Was that a town hall about the voter ID bill in 2011?</p> <p>9 A. Let me see here. Let me see who this is from</p> <p>10 and to.</p> <p>11 MR. CLAY: Can you give the Bates range</p> <p>12 for the document you're looking at?</p> <p>13 MR. DERFNER: Yeah, that document would</p> <p>14 be --</p> <p>15 THE WITNESS: 27.</p> <p>16 MR. CLAY: 27?</p> <p>17 MR. DERFNER: Yeah.</p> <p>18 THE WITNESS: Let me read this, Armand.</p> <p>19 MR. DERFNER: Sure thing.</p> <p>20 MR. CLAY: What is this one marked as?</p> <p>21 MR. DERFNER: That would be 12E.</p> <p>22 A. Okay. I'm ready for your question.</p> <p>23 Q. (BY MR. DERFNER) Okay. Tell me what that's</p> <p>24 about. Was that a town hall meeting?</p> <p>25 A. It appears that Jared Woodfill, if I'm</p>	<p style="text-align: right;">259</p> <p>1 March 2nd, it says, "\$500 for the facility fee. I</p> <p>2 hope to have 100-500. I stopped by your office in</p> <p>3 Austin. It looks great. Donna gave me a tour. Keep</p> <p>4 up the great work!" So I didn't --</p> <p>5 Q. Did you pay the \$500?</p> <p>6 A. I don't know if I did or didn't. It looks</p> <p>7 like I said "I will pay..."</p> <p>8 Q. Oh, okay.</p> <p>9 A. Yeah. I'm assuming I was good for it, okay?</p> <p>10 Q. Okay. And March -- early March, that would</p> <p>11 be -- you said it's after the Senate passed it, but</p> <p>12 it's before the final passage of the bill, correct?</p> <p>13 A. Yeah, I'm not sure when it finally passed,</p> <p>14 but I think that would be correct.</p> <p>15 Q. I'll say May 27th.</p> <p>16 A. Okay. Okay.</p> <p>17 Q. Okay. Thank you.</p> <p>18 Okay. Would you say the state has a general</p> <p>19 policy of wanting to have voters be properly</p> <p>20 identified when they vote?</p> <p>21 A. When you say "the state," who are you --</p> <p>22 Q. Texas.</p> <p>23 A. The citizens of Texas?</p> <p>24 Q. Well, or the state of Texas, through its laws</p> <p>25 and policies.</p>
<p style="text-align: right;">258</p> <p>1 reading this correctly, asked me -- and he was the</p> <p>2 chairman of the Harris County Republican Party at the</p> <p>3 time. It appears he was having a town hall meeting on</p> <p>4 the bill after it passed. This is March 4th -- after</p> <p>5 it passed the Senate.</p> <p>6 Q. Oh.</p> <p>7 A. This is March 4th is the date here. He wrote</p> <p>8 me on March 2nd. I responded March 4th. And it</p> <p>9 looked like he wanted to have a town hall, basically,</p> <p>10 to explain the bill, and wanted to know if I would</p> <p>11 help; which, county chairmen, as you know, Republican</p> <p>12 or Democrat, often ask legislators to kick in money to</p> <p>13 help defray costs. That's what it appears to be.</p> <p>14 And I couldn't be there, of course, it</p> <p>15 doesn't appear, because I was in session. So it looks</p> <p>16 like when I said "If anyone asks," that would</p> <p>17 represent, to me, that I didn't attend. I can't swear</p> <p>18 that I didn't attend, but I don't -- apparently, I</p> <p>19 didn't.</p> <p>20 And so -- and the explanation here, to him,</p> <p>21 is to share basically what we've been talking about</p> <p>22 for the last two or three hours on the -- again, the</p> <p>23 two amendments that I was involved in.</p> <p>24 Q. Okay. And the \$500?</p> <p>25 A. It says in his e-mail, if you look down on</p>	<p style="text-align: right;">260</p> <p>1 A. I think, in general, the citizens of Texas</p> <p>2 supported and wanted a photo voter ID to protect the</p> <p>3 integrity of the ballot box.</p> <p>4 Q. But the law reflects a state policy, does it</p> <p>5 not, of wanting voters to be identified; is that</p> <p>6 correct?</p> <p>7 A. Well, we don't have a state policy.</p> <p>8 Q. Okay.</p> <p>9 A. We have legislation passed by the</p> <p>10 representatives of the people.</p> <p>11 Q. Okay.</p> <p>12 A. So I would just rephrase it to say SB 14</p> <p>13 reflected the will of the voters as expressed through</p> <p>14 vote, through some members of legislature.</p> <p>15 Q. Okay. And is it the will of the voters as</p> <p>16 expressed through various legislation also to</p> <p>17 facilitate or enable eligible voters to vote in Texas?</p> <p>18 A. I'm not sure -- help me with that, Armand.</p> <p>19 Q. Okay. Is it also the policy of the state</p> <p>20 or --</p> <p>21 A. The citizens.</p> <p>22 Q. -- or the citizens, that eligible voters</p> <p>23 should be able to vote?</p> <p>24 A. Yes.</p> <p>25 Q. And that's facilitated through things like,</p>

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<p style="text-align: right;">261</p> <p>1 for example, putting polling places in neighborhoods 2 and things like that? 3 A. The people of Texas want every Texan who's 4 eligible to vote and who registers to vote to have the 5 opportunity to vote. 6 Q. Okay. Now, do those two policies, or 7 whatever you want to call them, the notion that every 8 Texan who's eligible should be able to vote and the 9 notion of identifying, can those sometimes be 10 intentioned, in the sense that if you make 11 identification stricter, it may make it harder to 12 vote; or if you make identification less strict, it 13 may make it easier to vote? 14 A. If I'm understanding your question, I don't 15 think they're connected. And the reason I don't think 16 they're connected is, if you look at the turnout and 17 we have -- for example, some states do not have early 18 voting. We have early voting, which, at some point in 19 time before my being in office, was decided to help 20 more people have time to vote. It is not 21 necessarily -- improve the percentage of people 22 voting. 23 So things that some people would view as 24 giving more opportunity, or some people would view as 25 less opportunities, is not necessarily reflecting</p>	<p style="text-align: right;">263</p> <p>1 just be doing your duty as -- for your job, 2 representing your client. You may not express your 3 personal beliefs. 4 But for sake of argument, I think we -- we 5 may have a philosophical difference, in that I believe 6 if citizens want to vote, they will do what it takes 7 to vote; and if -- and if it's required to have a 8 photo ID, the vast majority, overwhelming majority, 9 already have the required document. 10 But those who don't will find that document, 11 if they want to -- want to do what many people, you 12 know, consider for themselves is -- is very important, 13 and that's voting. So I don't see photo voter ID as 14 stringent. 15 Q. I understand that. But you can have 16 different kinds of photo IDs, can't you? We've been 17 talking about that all day. 18 A. Yes, sir. 19 Q. And isn't it true that if you have a more 20 stringent photo ID, the voters who want to vote -- and 21 I agree that most voters want to vote -- will have to 22 go an extra step or will have to do more on their part 23 to actually vote? 24 A. No. Because when Senate Bill 14 was 25 passed -- and I don't know the exact percentage; but,</p>
<p style="text-align: right;">262</p> <p>1 either more people registering to vote -- there's 2 still a lot of people who are eligible who don't 3 register to vote, they choose not to; and we have a 4 significant number of people who are registered to 5 vote, that don't vote. So I don't think you can 6 connect necessarily those dots. 7 Q. Well, you may not be able to connect turnout 8 or participation, but isn't there a connection, using 9 the example you gave, between the -- I'll call it the 10 stringency and the opportunity? 11 In other words, as you say, if -- if you 12 didn't have early voting, then people couldn't vote 13 early, correct? 14 A. Correct. If you didn't have mail-in, they 15 couldn't mail in. We make it pretty easy to vote in 16 Texas. 17 Q. If you have a more stringent photo ID law, 18 then that's going to make people have to make more of 19 an effort, will it not, to actually vote? 20 MR. CLAY: Objection. Form. 21 Q. (BY MR. DERFNER) Is that correct? 22 A. Well, that's your characterization, and I -- 23 Q. Do you agree or disagree? 24 A. Well, I -- well, you and I -- I'm not going 25 to assume we have a philosophical difference. You may</p>	<p style="text-align: right;">264</p> <p>1 based on some of the information that you have shared 2 with me today, or questions -- you must have access to 3 information that maybe 90 percent of the people, or 4 greater, already have what Senate Bill -- Senate Bill 5 14 required by law. And we didn't make it more 6 stringent, because we didn't have photo voter ID 7 before. This was new. 8 So if a law is passed that 90 percent of the 9 people, or more, already qualify for -- and the other 10 percentage of people are able to get a free -- free 11 voter card, for lack of better term -- then I don't 12 think that's made it more stringent. 13 Q. Well, what if -- what if 90 -- what 14 if -- okay. 15 If 90 percent of the people have a driver's 16 license, just -- 17 A. Or military, or CHL, they have -- they 18 already qualify. 19 Q. Okay. That means 10 percent -- and we're 20 using these hypothetically now. 21 A. Hypothetical. Based on some numbers we 22 talked about a little earlier. 23 Q. And 10 percent don't; that means 10 percent 24 are going to have to go get another card, correct? 25 A. Not necessarily. Because of that 10 percent,</p>

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<p style="text-align: right;">269</p> <p>1 Q. Okay. If you had a bill that was like the</p> <p>2 Indiana case -- like the Indiana law, and the Indiana</p> <p>3 case came along and said, "The Indiana law is okay --</p> <p>4 the Supreme Court case came along."</p> <p>5 Okay? Why would you go away from that? Why</p> <p>6 would you make your bill look less like the Indiana</p> <p>7 law --</p> <p>8 MS. DONNELLY: Objection. Form.</p> <p>9 Q. (BY MR. DERFNER) -- from 3- -- from S 362 to</p> <p>10 SB 14?</p> <p>11 A. Well, first of all, if we had mirrored the</p> <p>12 Indiana law exactly, my guess is someone would have</p> <p>13 still filed suit and we'd still be sitting here.</p> <p>14 Q. Uh-huh.</p> <p>15 A. Secondly, I can't explain the thinking of all</p> <p>16 the members of the Senate who helped craft the bill,</p> <p>17 or the author of the bill, what his thinking was; and</p> <p>18 what various people offered certain amendments or</p> <p>19 decided they didn't want to do it the same as they had</p> <p>20 done 362.</p> <p>21 As I did testify earlier, some members change</p> <p>22 and -- so I don't know the reasons why the bill</p> <p>23 changed, you know, specifically. I really don't know</p> <p>24 the reasons. I can't recall.</p> <p>25 Q. Were you aware -- you, with Senate Bill 14 --</p>	<p style="text-align: right;">271</p> <p>1 Q. Yeah, I'll take it back. Thanks.</p> <p>2 What reason would there be -- or what reason</p> <p>3 would you have for -- for not -- not covering -- not</p> <p>4 letting state civil servants -- that is, people with</p> <p>5 photo IDs from state agencies -- not letting that be</p> <p>6 qualified under the photo ID voting law?</p> <p>7 A. You know, I can't remember at the time what</p> <p>8 my thoughts were on that, Armand.</p> <p>9 Q. Well, can you think of one now? What's a</p> <p>10 good reason?</p> <p>11 A. You know, to be very candid with you, if you</p> <p>12 were asking me today and we were voting on the bill, I</p> <p>13 would say, "Let me do some homework on it and study on</p> <p>14 it and get back to you with an answer. I don't want</p> <p>15 to give a quick response on why now, you know." For</p> <p>16 whatever reason, we made that decision then and -- as</p> <p>17 we voted for the bill.</p> <p>18 (Patrick Exhibit 13 marked/introduced.)</p> <p>19 Q. (BY MR. DERFNER) Okay. What this is, this is</p> <p>20 a piece of some interrogatory answers that the state</p> <p>21 gave. You know that in a lawsuit each side gets to</p> <p>22 ask questions and the other side's supposed to answer</p> <p>23 the questions.</p> <p>24 A. Right.</p> <p>25 Q. At a certain point we asked the state some</p>
<p style="text-align: right;">270</p> <p>1 that it was less like the Indiana law than Senate 362</p> <p>2 had been? Were you personally aware of that when you</p> <p>3 were voting on it?</p> <p>4 A. Yeah, I don't -- I don't recall. I don't</p> <p>5 recall that.</p> <p>6 Q. Do you remember asking about that?</p> <p>7 A. No.</p> <p>8 Q. Do you remember anybody saying, "This bill is</p> <p>9 less like the Indiana law"?</p> <p>10 A. I don't -- I mean, I really don't recall. I</p> <p>11 know that -- I know in all -- you know, when everyone</p> <p>12 says in due respect, it means it's not -- I'm trying</p> <p>13 to be as respectful. I know this is your issue and</p> <p>14 what all of you are working on.</p> <p>15 It's one of, as I've said before, thousands</p> <p>16 of votes, a thousand bills. And so if you ask me</p> <p>17 about 900 of those bills, I would probably have the</p> <p>18 same answers. I don't -- including my own bills.</p> <p>19 If you ask me about bills from last session,</p> <p>20 I would have many of the same answers. I don't recall</p> <p>21 the discussion or what went into it at the time.</p> <p>22 Q. Okay. I'm going to show you -- well, let me</p> <p>23 ask you this first --</p> <p>24 A. Do you want this back, the Indiana? Do you</p> <p>25 want the Indiana --</p>	<p style="text-align: right;">272</p> <p>1 questions, and this is a piece of a document that came</p> <p>2 back. As you'll see, it's the first three pages --</p> <p>3 first --</p> <p>4 A. Where do you want me to be?</p> <p>5 Q. I want you to go --</p> <p>6 A. Where do you want me to be?</p> <p>7 Q. I want you to go to page 70- --</p> <p>8 A. 6?</p> <p>9 Q. -- -6.</p> <p>10 A. Okay.</p> <p>11 Q. And what this is, the question was</p> <p>12 about -- actually, the question starts back a</p> <p>13 little -- starts on 75, which is -- in fact, let's</p> <p>14 start on 75. Near the top you see 28, which is the</p> <p>15 question. Why don't you read that out loud.</p> <p>16 A. I'm on page 75. You want me to read 28?</p> <p>17 Q. Yes.</p> <p>18 A. "Identify all Texas State and local public</p> <p>19 agencies and entities that issue or are authorized to</p> <p>20 issue photographic identification and state the</p> <p>21 eligibility requirements for obtaining a form of</p> <p>22 photographic identification from each such agency or</p> <p>23 entity."</p> <p>24 Q. Okay. Now let's turn over to page 76.</p> <p>25 A. All right.</p>

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<p style="text-align: right;">273</p> <p>1 Q. And look at Interrogatory 28a --</p> <p>2 A. Okay.</p> <p>3 Q. -- near the top of the page.</p> <p>4 A. Yes.</p> <p>5 Q. And so you won't get -- read that first part</p> <p>6 there. Read what it says in No. 28a.</p> <p>7 A. "The Texas Department of Public Safety issues</p> <p>8 the following forms of identification containing</p> <p>9 photographs:"</p> <p>10 Q. Okay. And it lists a number of things</p> <p>11 that -- that DPS does, right?</p> <p>12 A. Yes.</p> <p>13 Q. "The Department of Public..."; and then after</p> <p>14 that, what is the next sentence? "The agencies listed</p> <p>15 below," read that part.</p> <p>16 A. "Use DPS resources to issue security access</p> <p>17 cards to their employees."</p> <p>18 Q. Okay. So then you have several pages</p> <p>19 listed --</p> <p>20 A. Yes.</p> <p>21 Q. -- of states agencies that use DPS</p> <p>22 facilities --</p> <p>23 A. Right.</p> <p>24 Q. -- to issue their cards.</p> <p>25 A. Right.</p>	<p style="text-align: right;">275</p> <p>1 out as well as -- of the Capitol, the determination</p> <p>2 was made at some point in the discussions, obviously,</p> <p>3 that we wanted these documents. And obviously, there</p> <p>4 was a lot of thinking that went into that and</p> <p>5 reasoning that went into that. I don't recall what</p> <p>6 that was three years later.</p> <p>7 But this was the bill that was presented and</p> <p>8 this is the bill that passed. This was the bill that</p> <p>9 has not met with objection from the public; with the</p> <p>10 exception of, I guess, the one student who is suing</p> <p>11 us, and -- and this is -- this is the bill that people</p> <p>12 seem to be very happy with, so...</p> <p>13 You know, we wanted to look at -- for</p> <p>14 example, if you -- if you look at Arthur's card, for</p> <p>15 example, there's no expiration date. There's really</p> <p>16 not much information on here.</p> <p>17 It would be easy, if someone -- you know, a</p> <p>18 driver's license -- and that's one of the reasons they</p> <p>19 eventually put a cap on 60 days of expiration.</p> <p>20 You know, what do you do? I bet you have</p> <p>21 cards like this sitting in a drawer or a desk</p> <p>22 somewhere, and you do and you do, and we all do. And</p> <p>23 so when things -- or you change agencies. Every</p> <p>24 agency -- my card looks vastly different from this.</p> <p>25 I -- you know, I don't recall this</p>
<p style="text-align: right;">274</p> <p>1 Q. What's the logic of not letting that be a</p> <p>2 photo ID?</p> <p>3 MR. CLAY: Objection. Misrepresents the</p> <p>4 exhibit.</p> <p>5 MS. DONNELLY: Objection. Form.</p> <p>6 MR. CLAY: Can you reread the question,</p> <p>7 please.</p> <p>8 MR. DERFNER: Reread the question,</p> <p>9 please.</p> <p>10 THE REPORTER: "Okay. So then you have</p> <p>11 several pages listed of states agencies that use DPS</p> <p>12 facilities to issue their cards."</p> <p>13 "What's the logic of not letting that be</p> <p>14 a photo ID?"</p> <p>15 MR. D'ANDREA: Do you mind if I show the</p> <p>16 witness my state-issued government ID and my driver's</p> <p>17 license? It will maybe help him make some policy</p> <p>18 choices here on the fly.</p> <p>19 MR. CLAY: I also just want to make a</p> <p>20 point, for the record, that what this actually says</p> <p>21 is: "The agencies listed below use DPS resources,"</p> <p>22 not facilities.</p> <p>23 MR. DERFNER: Okay.</p> <p>24 A. Well, even before I saw this, because I have</p> <p>25 my -- you know, my own card, photo card, to get in and</p>	<p style="text-align: right;">276</p> <p>1 conversation, but I think a reasonable person would</p> <p>2 say that you don't want the line to be forever when</p> <p>3 you're voting.</p> <p>4 You talk about opportunity to vote. One</p> <p>5 thing that will keep people away from voting is when</p> <p>6 they show up to vote and the line is out the door.</p> <p>7 That sometimes occurs on the last day of voting or on</p> <p>8 a -- on a very heavy election.</p> <p>9 If -- if the volunteer -- well, they're paid</p> <p>10 very little money -- election judge and precinct poll</p> <p>11 worker has to go through 50 and 60 different IDs that</p> <p>12 are brought to them, well, is this good, is this not</p> <p>13 good, what is this one, they -- you know, it could</p> <p>14 lead to confusion and delay.</p> <p>15 And so we simplified it to documents which</p> <p>16 most Texans have, or have available to them, one of</p> <p>17 several documents. And if they don't, they can get a</p> <p>18 free one without, you know, inconvenience.</p> <p>19 Q. (BY MR. DERFNER) So when you had these</p> <p>20 choices --</p> <p>21 A. Right.</p> <p>22 Q. -- you made this choice at least on the more</p> <p>23 stringent side, didn't you?</p> <p>24 MS. DONNELLY: Objection. Form.</p> <p>25 A. Armand, you keep using that word "stringent"</p>

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<p style="text-align: right;">277</p> <p>1 and you're --</p> <p>2 Q. (BY MR. DERFNER) It is.</p> <p>3 A. No, it's not stringent.</p> <p>4 Q. Okay. Is it not more stringent to allow</p> <p>5 fewer cards instead of more cards?</p> <p>6 A. No.</p> <p>7 MS. DONNELLY: Objection. Form.</p> <p>8 Q. (BY MR. DERFNER) Okay. Why not?</p> <p>9 A. I don't think it's -- it's stringent to say</p> <p>10 more or less. Example: If you allowed every card</p> <p>11 that you suggest in here, it might make voting, to use</p> <p>12 your word, "more stringent," because it's going to</p> <p>13 slow the process down dramatically and make the lines</p> <p>14 much longer and discourage people from wanting to</p> <p>15 vote.</p> <p>16 I could see -- because sometimes people will</p> <p>17 sue no matter what someone does, as you know. I could</p> <p>18 see someone coming and bringing a suit, "You know</p> <p>19 what, you've allowed people to use 70 or 80 different</p> <p>20 forms of ID; and you know what, that's made the lines</p> <p>21 very long and I can't get home before the polls close</p> <p>22 in time to get in line and I'm just not voting.</p> <p>23 There's always going to be someone to take</p> <p>24 issue, no matter what Democrats or Republicans do,</p> <p>25 when trying to represent the public. And we decided</p>	<p style="text-align: right;">279</p> <p>1 A. You'll know. I don't know what time your</p> <p>2 plane is, but...</p> <p>3 Q. Well, the problem -- no, no.</p> <p>4 A lot more people may not have licenses that</p> <p>5 are out on the road anyway?</p> <p>6 A. Well, and some people go to vote who -- who</p> <p>7 don't have -- you know, aren't registered.</p> <p>8 Q. You haven't ever actually -- you don't ever</p> <p>9 actually -- you don't know, yourself, of any report</p> <p>10 that you've ever gotten that somebody did that, have</p> <p>11 you?</p> <p>12 A. Well, I was asked the question earlier today,</p> <p>13 did I -- I don't know if the question was personal</p> <p>14 knowledge, but I took it as do I personally know.</p> <p>15 Q. Yeah.</p> <p>16 A. But we had testimony on -- on the bills over</p> <p>17 the various sessions of people voting who shouldn't be</p> <p>18 voting.</p> <p>19 Q. Impersonators, or something else?</p> <p>20 A. I can't remember specifically what it was,</p> <p>21 but people getting -- I believe there was testimony of</p> <p>22 voter registration cards, you know, where people were</p> <p>23 deceased. People who didn't have the proper -- they</p> <p>24 weren't -- you know, some people -- there was a lot of</p> <p>25 testimony. I don't want to go into specifics because</p>
<p style="text-align: right;">278</p> <p>1 on these identification cards, we felt, was the right</p> <p>2 thing to do and we passed the bill.</p> <p>3 Q. Do you remember anything that was ever said</p> <p>4 while the legislation was being considered? Not</p> <p>5 counting specific communications from other</p> <p>6 legislators, private communications.</p> <p>7 But anything that was either said on the</p> <p>8 public record or at any other time, that explained why</p> <p>9 state civil servants shouldn't -- that their cards</p> <p>10 shouldn't be covered?</p> <p>11 A. If it's on the public record, then it would</p> <p>12 be there and speak for itself. I don't recall, and I</p> <p>13 don't recall --</p> <p>14 Q. How about federal civil servants?</p> <p>15 A. Again, I've tried to be very candid. My</p> <p>16 answer is to answer all the questions I can all day</p> <p>17 long. I just don't recollect those. It's a long time</p> <p>18 ago and many votes ago.</p> <p>19 Q. We've talked -- you've used the phrase, "the</p> <p>20 vast" -- I think the phrase you used was "the vast</p> <p>21 majority of people have driver's licenses," right?</p> <p>22 A. Yes. If you've seen our traffic, you know</p> <p>23 I'm correct.</p> <p>24 Q. If I try to get to the airport, I'll sure</p> <p>25 know that.</p>	<p style="text-align: right;">280</p> <p>1 I may be wrong, but there was testimony on fraudulent</p> <p>2 voting. And some people in the state -- I believe the</p> <p>3 Attorney General's Office, I stand to be corrected --</p> <p>4 has actually prosecuted some people for fraudulently</p> <p>5 voting.</p> <p>6 Q. Do you know how many?</p> <p>7 A. I don't.</p> <p>8 Q. Okay. Would it surprise you to know that it</p> <p>9 was approximately two?</p> <p>10 A. I don't know the number.</p> <p>11 Q. Okay. Do you know how many people, or did</p> <p>12 you ever know how many people, registered voters,</p> <p>13 don't have driver's licenses?</p> <p>14 A. No.</p> <p>15 Q. Okay. Would it surprise you -- let me put it</p> <p>16 this way. I don't want to -- I don't want to</p> <p>17 misrepresent anything.</p> <p>18 A. Okay.</p> <p>19 Q. In the Department of Justice's letter</p> <p>20 responding to the Section 5 submission, the department</p> <p>21 reported that DPS had sent data indicating that,</p> <p>22 depending on which data set was used, the number of</p> <p>23 people -- registered voters who did not have driver's</p> <p>24 licenses, was either 605,000 or 795,000.</p> <p>25 Would that number -- do those numbers</p>

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<p style="text-align: right;">281</p> <p>1 surprise you?</p> <p>2 A. No. I mean, I don't -- I don't -- I don't</p> <p>3 want to say no. Let me correct my answer. Those</p> <p>4 numbers don't mean anything to me because I don't have</p> <p>5 the rest of the data.</p> <p>6 Q. Okay. Well, suppose 795,000 registered</p> <p>7 voters didn't have driver's licenses. Is that a</p> <p>8 problem for you?</p> <p>9 A. They may have a military ID.</p> <p>10 Q. Uh-huh.</p> <p>11 A. They may have a passport. They might have a</p> <p>12 CHL. Or, I can only guess, I shouldn't, is a large</p> <p>13 number, maybe half, maybe more, are over 65 and they</p> <p>14 aren't driving anymore and they don't need a driver's</p> <p>15 license to vote because they vote by mail.</p> <p>16 We -- as you well know, Democrats and</p> <p>17 Republicans, a large percentage of our voters are</p> <p>18 senior citizens. So the reason the 600,000 or 700,000</p> <p>19 doesn't surprise me, or concern me, is because if you</p> <p>20 really drill down into the data, it might be that 4 to</p> <p>21 500,000 of those people either aren't required to have</p> <p>22 it, don't care to have it or have other photo ID.</p> <p>23 Q. But you didn't know the number, right?</p> <p>24 MS. DONNELLY: Right. He's accepting</p> <p>25 your premise.</p>	<p style="text-align: right;">283</p> <p>1 Someone could have, but I don't remember. I don't</p> <p>2 remember.</p> <p>3 Q. Okay. Let's -- you've talked about -- we --</p> <p>4 we'll call it the free -- the free ID or the EIC.</p> <p>5 A. Yes.</p> <p>6 Q. Okay?</p> <p>7 A. What does EIC stand for, election --</p> <p>8 Q. Election --</p> <p>9 A. -- something certificate?</p> <p>10 Q. -- identification certificate.</p> <p>11 MS. CONLEY: I'm sorry, I messed that up</p> <p>12 for everybody.</p> <p>13 THE WITNESS: No, no, no, no. No, no,</p> <p>14 no, no. Election identification certificate. I got</p> <p>15 it.</p> <p>16 MS. CONLEY: Yes.</p> <p>17 Q. (BY MR. DERFNER) Okay. Who decides what you</p> <p>18 have to do to get that?</p> <p>19 A. What do you mean by that?</p> <p>20 Q. Well -- okay. Rather than asking you the</p> <p>21 question, I'm going to show you --</p> <p>22 A. Okay.</p> <p>23 (Patrick Exhibit 14 marked/introduced.)</p> <p>24 Q. (BY MR. DERFNER) This is SB 14.</p> <p>25 A. Okay.</p>
<p style="text-align: right;">282</p> <p>1 A. Yeah, I'm accepting your premise.</p> <p>2 Q. (BY MR. DERFNER) No, no. But you never knew</p> <p>3 what the number was in the debate, right?</p> <p>4 A. I don't recall if that was part of it or not.</p> <p>5 Q. Do you know if anybody ever said what the</p> <p>6 number was or asked for it?</p> <p>7 A. I don't -- you know, I don't know. I mean, I</p> <p>8 really don't know. I would expect if someone knew the</p> <p>9 number, maybe a Democrat would have brought it up, if</p> <p>10 not a Republican, but I don't know. You'd have to go</p> <p>11 back and look at the record.</p> <p>12 Q. Okay. Why wouldn't somebody have asked DPS</p> <p>13 for the number?</p> <p>14 MS. DONNELLY: Objection. Speculation.</p> <p>15 A. You'd have to ask 30 other senators.</p> <p>16 Q. (BY MR. DERFNER) Well, what about you?</p> <p>17 A. It -- I don't know why I didn't make that</p> <p>18 request. It wasn't -- again, I was not the main</p> <p>19 author of the bill and -- you know, I don't know why I</p> <p>20 wouldn't have asked. Maybe I -- maybe I assumed a</p> <p>21 Democrat would ask and they would try to make that --</p> <p>22 I don't know. I mean --</p> <p>23 Q. You don't remember anybody ever telling you</p> <p>24 that they knew a number, right?</p> <p>25 A. I -- you know, I honestly don't recall.</p>	<p style="text-align: right;">284</p> <p>1 Q. And I want you to turn to -- up in the upper</p> <p>2 right-hand corner, it's page 11 of 11. Actually,</p> <p>3 below that it says page 10.</p> <p>4 A. Okay. I see that.</p> <p>5 Q. Actually, this is -- I'll just tell you, if</p> <p>6 you start on the previous page, it's Section 20 of</p> <p>7 SB 14, which deals with the famous EIC and it has a</p> <p>8 bunch of provisions. You're free to read those if you</p> <p>9 like.</p> <p>10 A. Where is Section 20?</p> <p>11 Q. Section 20 is in the middle of page -- the</p> <p>12 previous page.</p> <p>13 A. Oh, I see. Okay. I missed it. I got it.</p> <p>14 Q. Okay. So that tells you -- that creates the</p> <p>15 EIC, which didn't exist before this bill.</p> <p>16 A. Right.</p> <p>17 Q. Okay. And then it has a number of things</p> <p>18 about what -- who you have to be and all that sort of</p> <p>19 thing. And then it says -- if you turn the page, on</p> <p>20 Section (f) -- read Section (f) to me.</p> <p>21 A. "The department may require each applicant</p> <p>22 for an original or renewal election identification</p> <p>23 certificate to furnish to the department the</p> <p>24 information required by Section 521.142.</p> <p>25 Q. Okay. And I'm not trying to make a lawyer</p>

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72 (Pages 285 to 288)

<p style="text-align: right;">285</p> <p>1 out of you, although you probably could do it --</p> <p>2 A. I feel like after 16,000 votes I ought to get</p> <p>3 some credit for some law school.</p> <p>4 Q. Let me show you the next document.</p> <p>5 A. Do you want me to, say, dog-ear this page and</p> <p>6 stay there if you'd like to come back to that?</p> <p>7 Q. Yeah.</p> <p>8 A. Okay.</p> <p>9 (Patrick Exhibit 15 marked/introduced.)</p> <p>10 (Discussion off the record.)</p> <p>11 Q. (BY MR. DERFNER) Okay. This is, and I'll</p> <p>12 tell you this, this is a section of the code called</p> <p>13 Transportation Code 521.142.</p> <p>14 A. Okay.</p> <p>15 Q. You remember the section you just read,</p> <p>16 said -- I'll paraphrase: The department can ask for</p> <p>17 any information required by 521.142.</p> <p>18 A. All right.</p> <p>19 Q. So here's 521.142, and there's a bunch of</p> <p>20 things in here, including -- let's see. Where is it?</p> <p>21 If you turn to page -- the second page, look at (e).</p> <p>22 I guess it's --</p> <p>23 A. I see it. "The application must include"?</p> <p>24 Q. Yeah. Read it out loud.</p> <p>25 A. "The application must include any other</p>	<p style="text-align: right;">287</p> <p>1 So -- so the department can make</p> <p>2 it -- doesn't it look like the department can make it</p> <p>3 as tough or as easy as it likes to get an EIC?</p> <p>4 A. You know, again, since I can't -- I really</p> <p>5 can't answer your question. I really can't, to be</p> <p>6 honest.</p> <p>7 (Patrick Exhibits 16 and 17</p> <p>8 marked/introduced.)</p> <p>9 Q. (BY MR. DERFNER) So you were talking about</p> <p>10 rule-making. So 16 is some rules that DPS came up</p> <p>11 with, and if you look at 17 on the first page under --</p> <p>12 I guess number (3). Do you see number -- I don't know</p> <p>13 if it's --</p> <p>14 A. Where is (3)?</p> <p>15 Q. Right about there.</p> <p>16 A. Oh, this is on page 8 of 8.</p> <p>17 Q. Yeah.</p> <p>18 A. Okay. You didn't tell me that.</p> <p>19 Q. Okay. Read Number (3).</p> <p>20 A. "the fingerprints of the applicant; this does</p> <p>21 not apply to an applicant who is permitted and</p> <p>22 utilizes an alternative method for renewing or</p> <p>23 duplicating an election identification certificate;"</p> <p>24 Q. Would it surprise you to learn that DPS, at</p> <p>25 least for a while, was making applicants who wanted to</p>
<p style="text-align: right;">286</p> <p>1 information the department requires to determine the</p> <p>2 applicant's identity, residency, competency, and</p> <p>3 eligibility as required by the department or state</p> <p>4 law."</p> <p>5 Q. So who does -- if you read those two</p> <p>6 together, who decides what you need to do to get an</p> <p>7 EIC? Is it the legislature that decided that or is it</p> <p>8 DPS?</p> <p>9 A. I'd have to study this a little bit and get</p> <p>10 back to you in the morning.</p> <p>11 Let me see if I can answer your question</p> <p>12 here. "The department may require..." Well, it would</p> <p>13 appear, stand to be corrected, it would appear since</p> <p>14 we have a "may" instead of a "shall," number one, the</p> <p>15 department makes the final decision. So that would</p> <p>16 appear, the department.</p> <p>17 Number two, very often we pass legislation</p> <p>18 and a lot of it is in the rule-making process by a</p> <p>19 various agency. So I'd have to go back and do a</p> <p>20 little bit more homework on this and drill down to</p> <p>21 this. But it would appear it could be the department,</p> <p>22 especially since we have a "may" instead of a "shall."</p> <p>23 Q. Okay.</p> <p>24 A. But I'm not positive.</p> <p>25 Q. I understand. I understand. Okay.</p>	<p style="text-align: right;">288</p> <p>1 vote with an EIC give them their fingerprints?</p> <p>2 A. No.</p> <p>3 Q. Do you think that's something they ought to</p> <p>4 be able to do?</p> <p>5 A. I stand to be corrected, but I believe when</p> <p>6 you get your driver's license, we give a fingerprint.</p> <p>7 When you get a CHL, you get a fingerprint. And when</p> <p>8 you're in the military, you get a fingerprint.</p> <p>9 So -- so for some other documents that we</p> <p>10 already require -- and, again, I have to stand</p> <p>11 corrected on the driver's license, but I know to get a</p> <p>12 CHL you have to submit fingerprints.</p> <p>13 Q. Do you think it's appropriate to make</p> <p>14 somebody get fingerprinted in order to be able to</p> <p>15 vote?</p> <p>16 A. You could back that down and say, "Is it</p> <p>17 appropriate to make someone give a fingerprint to get</p> <p>18 a driver's license?" We're trying to establish to be</p> <p>19 sure that we have integrity at the ballot box.</p> <p>20 Q. Are you aware, since you're getting your</p> <p>21 legal education here, that the Supreme Court has said</p> <p>22 that voting has elements of the First Amendment in it,</p> <p>23 that a voter's rights are First Amendment interests?</p> <p>24 MS. DONNELLY: Objection. Form.</p> <p>25 A. I'll let the courts decide what the courts</p>

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73 (Pages 289 to 292)

<p style="text-align: right;">289</p> <p>1 decide. I just write and pass legislation and vote 2 for legislation. 3 Q. (BY MR. DERFNER) Do you not see a difference 4 between the rights of a respective voter and the 5 rights of a respective driver? 6 A. As an individual -- as an individual, yes, I 7 understand and can philosophically see the 8 differences. 9 Q. Why did you tell DPS to make the rules for 10 voters in this case? 11 MS. DONNELLY: Objection. 12 Q. (BY MR. DERFNER) Are they the right agency? 13 MS. DONNELLY: Objection. Form. 14 A. I didn't tell anyone to -- 15 Q. (BY MR. DERFNER) Well, you put it in the 16 statute. 17 A. I have to go back and see exactly what 18 was -- 19 Q. Okay. 20 MR. DERFNER: Which number is that, 21 SB 14? 22 THE REPORTER: Now, that one, I don't 23 know. 24 MR. DYER: That's 14, I think, the bill. 25 MS. DONNELLY: Yeah, 14.</p>	<p style="text-align: right;">291</p> <p>1 MS. DONNELLY: Objection. 2 Argumentative. 3 Q. (BY MR. DERFNER) Okay. Then let me ask it a 4 little bit differently. Does DPS seem like the right 5 agency to put this awesome responsibility on? 6 MS. DONNELLY: Objection. 7 Argumentative. 8 MR. DERFNER: Is it still argumentative? 9 Suppose I take out "awesome." 10 A. You know, Armand, I've never thought it. I'd 11 have to think about it. 12 Q. (BY MR. DERFNER) Well, shouldn't you have 13 thought about it before you passed the bill? 14 A. I might have. I don't recall. 15 Q. Okay. Do you know if anybody said anything 16 about whether it should be DPS that has this 17 responsibility? 18 A. I do not recall. 19 Q. Okay. Do you know, by the way -- never mind. 20 Okay. Let's see. 21 MS. DONNELLY: Armand, We've been going 22 for over an hour. 23 MR. DERFNER: I'm almost done. We 24 probably can finish this in just a few minutes. 25 Do you want to take a short break? I'm</p>
<p style="text-align: right;">290</p> <p>1 Q. (BY MR. DERFNER) You gave DPS the 2 responsibility for the EIC, didn't you? 3 A. We -- in legislation that we pass all the 4 time, whether it's education, we have the TEA, whether 5 it's health and human services and it's child 6 protective, whether it's transportation and TxDOT, we 7 often give agencies rule-making power. 8 Q. But you usually give the right agency the 9 power, don't you? 10 MR. CLAY: Objection. Form. 11 MS. DONNELLY: Objection. Form. 12 MR. CLAY: Argumentative. 13 Q. (BY MR. DERFNER) I mean, you wouldn't give -- 14 you wouldn't give the agriculture department the 15 decision-making power over an education, or other 16 situation, wouldn't you, or health? 17 A. If it was -- 18 MR. CLAY: Objection. Form. 19 A. -- dealing with the FFA case, you might. I 20 understand your point. I'm not trying to be flippant. 21 Q. (BY MR. DERFNER) So why did you give -- why 22 did you give this critical voting matter to DPS, 23 especially when other issues under the voter ID law do 24 go to the Secretary of State and the election 25 division?</p>	<p style="text-align: right;">292</p> <p>1 almost done. Let's take a short break and we can 2 finish it -- wrap it up right after that. 3 MS. DONNELLY: That will give you a 4 chance to get your question. 5 THE WITNESS: Okay. Let's keep it a 6 tight 5 and real short. 7 (Break.) 8 (Patrick Exhibit 18 marked/introduced.) 9 Q. (BY MR. DERFNER) Okay. I've handed you a 10 document, which is -- as far as I can tell, it's 11 a -- it's off a website, a DPS website, and it talks 12 about the EIC, what you have to do to get one, et 13 cetera. 14 A. All right. 15 Q. Are you familiar with this at all? 16 A. No, I have not looked at it -- 17 Q. Okay. 18 A. -- until now. 19 Q. Look through it a little bit. 20 A. I did. I've looked through it. 21 Q. And you see it incorporates the various 22 requirements that -- that are in the EIC, including 23 documentation of citizenship, et cetera, correct? 24 A. Yes, sir. 25 Q. So are these things that the legislature</p>

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<p style="text-align: right;">293</p> <p>1 intended to require for people getting this EIC that</p> <p>2 the legislature had created?</p> <p>3 A. I don't recall.</p> <p>4 Q. Did the legislature have any idea of what it</p> <p>5 wanted to require?</p> <p>6 A. I don't recall.</p> <p>7 Q. Okay. Do you remember anything -- well, I</p> <p>8 guess you've said you don't recall.</p> <p>9 A. Yeah, I really don't.</p> <p>10 Q. If somebody can't meet these requirements,</p> <p>11 are they able to vote?</p> <p>12 A. All people can go vote and cast a provisional</p> <p>13 ballot.</p> <p>14 Q. Okay.</p> <p>15 A. I'd have to -- Armand, I'd have to look at</p> <p>16 this and study it a little bit. I'm seeing it for the</p> <p>17 first time.</p> <p>18 Q. Well, let me clarify your answer about the</p> <p>19 provisional ballot. Casting a provisional ballot,</p> <p>20 what does it take to get it counted?</p> <p>21 A. I believe the law -- and I stand to be</p> <p>22 corrected -- today, is within six days or seven days,</p> <p>23 one of the two, you have to bring back a photo</p> <p>24 document showing that you're the person who voted.</p> <p>25 Q. So when you say anybody can cast a</p>	<p style="text-align: right;">295</p> <p>1 the county, so I can't vote in city elections.</p> <p>2 Q. So let's suppose you are a registered voter,</p> <p>3 a proper resident of the precinct you want to vote</p> <p>4 in -- not a felon, not disqualified for any other</p> <p>5 reason -- so you're properly registered to vote; but,</p> <p>6 you don't have one of the photo IDs listed in SB 14</p> <p>7 and you can't meet these or you don't meet these</p> <p>8 requirements for an EIC. Can you vote? And not</p> <p>9 absentee. Can you vote in person?</p> <p>10 A. You could vote in person a provisional ballot</p> <p>11 and then you -- the vote -- you would have to come</p> <p>12 back and prove up -- yes, if you don't have the</p> <p>13 document, it's -- you know, again, I go back to all</p> <p>14 the examples of photo ID.</p> <p>15 Even if it's my child, my grandchildren now,</p> <p>16 if I want to pick up at school, most schools require</p> <p>17 you show an ID to go pick up your child from school to</p> <p>18 take them to the doctor. There are rules and...</p> <p>19 Yes, so under the rules that have been set</p> <p>20 forth by SB 14, you have to be eligible, you have to</p> <p>21 be registered, and you have to have a photo ID to vote</p> <p>22 in person.</p> <p>23 Q. Okay. By the way, let me just clarify one</p> <p>24 thing on an earlier topic --</p> <p>25 A. Yes.</p>
<p style="text-align: right;">294</p> <p>1 provisional ballot, all you're saying, I take it, is</p> <p>2 that it gives you more time, but you still need to get</p> <p>3 the photo ID, right? It just gives you six extra</p> <p>4 days, in a sense?</p> <p>5 A. Correct.</p> <p>6 Q. So if you can't meet the requirements for an</p> <p>7 EIC and you don't already have one of the other</p> <p>8 things, like a driver's license or the military --</p> <p>9 A. Right.</p> <p>10 Q. -- then can you vote?</p> <p>11 MR. CLAY: Objection. It's vague.</p> <p>12 A. Would you repeat that? Do you mind?</p> <p>13 MR. DERFNER: Denise.</p> <p>14 THE REPORTER: "So if you can't meet the</p> <p>15 requirements for an EIC and you don't already have one</p> <p>16 of the other things, like a driver's license or the</p> <p>17 military, then can you vote?"</p> <p>18 A. Well, my answer would be the -- the same</p> <p>19 would apply. If you can't meet the requirements of</p> <p>20 being registered to vote, you can't vote.</p> <p>21 Q. (BY MR. DERFNER) Okay.</p> <p>22 A. If you -- if you can't meet the requirements</p> <p>23 of eligibility -- for example, resident of Texas or in</p> <p>24 certain elections resident of a city -- you can't</p> <p>25 vote. So there are requirements. You know, I live in</p>	<p style="text-align: right;">296</p> <p>1 Q. -- about voting absentee -- or voting by</p> <p>2 mail.</p> <p>3 A. Yes.</p> <p>4 Q. People who vote by mail don't have to go</p> <p>5 through this, right? Don't have to come up with a</p> <p>6 photo ID?</p> <p>7 A. Correct.</p> <p>8 Q. Okay. But if you were told you're not</p> <p>9 allowed to vote in person, but you can only vote by</p> <p>10 mail, would you be losing something?</p> <p>11 MR. CLAY: Objection. Form.</p> <p>12 A. I'm not sure I understand.</p> <p>13 Q. (BY MR. DERFNER) Would you feel that was some</p> <p>14 kind of a disadvantage to you?</p> <p>15 A. I'll be happy when I'm 65 and can vote by</p> <p>16 mail.</p> <p>17 Q. That wasn't my question.</p> <p>18 A. I know. No. I mean, I don't personally.</p> <p>19 Again, we -- you know, we've had a pretty good day. I</p> <p>20 think it's been -- it's been --</p> <p>21 Q. Getting better by the minute.</p> <p>22 A. Getting better by the minute. We just have a</p> <p>23 philosophical belief here. I just -- I, along with</p> <p>24 millions of Texans, just don't believe that requiring</p> <p>25 a photo to vote, a sacred -- many people consider it</p>

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75 (Pages 297 to 300)

<p style="text-align: right;">297</p> <p>1 very important, the integrity of the ballot box. It</p> <p>2 decides who our President and our Congress and</p> <p>3 senators and local officials are.</p> <p>4 Millions and millions of Texans, including</p> <p>5 Democrats and poor people that we've talked about</p> <p>6 today, and minorities, don't think it's a burden or an</p> <p>7 issue to ask someone to have a photo when it's almost</p> <p>8 impossible to have a normal life in America today</p> <p>9 without having to show a photo ID to do so many</p> <p>10 things.</p> <p>11 Q. That's a great answer, Dan, but it wasn't my</p> <p>12 question.</p> <p>13 A. Okay.</p> <p>14 MR. DERFNER: Read the question again.</p> <p>15 THE REPORTER: "Okay. But if you were</p> <p>16 told you're not allowed to vote in person, but you can</p> <p>17 only vote by mail, would you be losing something?"</p> <p>18 "Would you feel that was some kind of a</p> <p>19 disadvantage to you?"</p> <p>20 MS. DONNELLY: Objection. Form.</p> <p>21 Go ahead.</p> <p>22 A. I think I said, no, it wouldn't.</p> <p>23 Q. (BY MR. DERFNER) Why not? Are you serious?</p> <p>24 MS. DONNELLY: Argumentative.</p> <p>25 A. Okay. Well, if the rules say I need a photo</p>	<p style="text-align: right;">299</p> <p>1 A. If, when I renewed my driver's license -- and</p> <p>2 it's probably the first time, it's probably not on</p> <p>3 renewal. But I don't know, if that was a requirement</p> <p>4 at the time, then I had -- then I had to do that.</p> <p>5 Q. But you don't know if it was a requirement at</p> <p>6 the time, do you?</p> <p>7 A. I don't know.</p> <p>8 Q. If it was not a requirement at the time, then</p> <p>9 maybe you didn't have to do it?</p> <p>10 A. I don't know. Well, if it wasn't a</p> <p>11 requirement, then I wouldn't have had to do it.</p> <p>12 Q. And if you didn't have to do it and there's</p> <p>13 no documentation of citizenship in your DPS records,</p> <p>14 should you be able to vote?</p> <p>15 A. The laws -- if people act under the laws at</p> <p>16 the time, then they're acting under the laws at the</p> <p>17 time.</p> <p>18 Q. So should DPS be able to make it harder to</p> <p>19 get an EIC today than was required of people who have</p> <p>20 driver's licenses, who would be able to go to the</p> <p>21 polls?</p> <p>22 A. First, I don't suggest -- I don't buy your</p> <p>23 characterization that it's harder. And secondly, I</p> <p>24 don't know when -- maybe I did have to prove -- I</p> <p>25 mean, I just don't know the answer to that question.</p>
<p style="text-align: right;">298</p> <p>1 voter ID to vote and I don't have a photo voter ID and</p> <p>2 I don't -- and I'm not inclined to get a photo voter</p> <p>3 ID, then that's -- you know, that's -- I mean, society</p> <p>4 does have its rules and regulations to do certain</p> <p>5 things that the people support. And if the people did</p> <p>6 support it, it wouldn't be law.</p> <p>7 (Ms. Baldwin exits the room.)</p> <p>8 Q. (BY MR. DERFNER) If there are people who have</p> <p>9 driver's licenses now, who didn't have to meet these</p> <p>10 requirements, these documentary requirements, such as</p> <p>11 documenting citizenship in order to get that driver's</p> <p>12 license, should they be able to use that driver's</p> <p>13 license as a photo ID?</p> <p>14 A. I stand to be corrected, but I do believe you</p> <p>15 have to prove citizenship to get a driver's license in</p> <p>16 Texas.</p> <p>17 Q. Okay. When did you last renew your driver's</p> <p>18 license?</p> <p>19 A. I was asked earlier this morning. I don't</p> <p>20 recall. I don't recall.</p> <p>21 Q. Okay. Did you prove citizenship at that</p> <p>22 time?</p> <p>23 A. I don't recall.</p> <p>24 Q. Did you ever prove citizenship to get your</p> <p>25 driver's license?</p>	<p style="text-align: right;">300</p> <p>1 I don't remember. When I got my first driver's</p> <p>2 license in Texas, I don't know what the law was.</p> <p>3 Q. One of the documents DPS calls for in order</p> <p>4 to qualify for an EIC is a birth certificate; is that</p> <p>5 correct?</p> <p>6 A. I believe so.</p> <p>7 Q. What does that do? Why is that</p> <p>8 identification?</p> <p>9 MS. DONNELLY: Objection. Form.</p> <p>10 A. I don't know what their thinking is on it.</p> <p>11 But very often many things require, like a passport,</p> <p>12 that you provide a birth certificate. Other things</p> <p>13 require a birth certificate when they determine</p> <p>14 that -- that a birth certificate is important to prove</p> <p>15 that up.</p> <p>16 Q. (BY MR. DERFNER) Does a birth certificate</p> <p>17 have a photo on it?</p> <p>18 A. No, but it would prove your citizenship,</p> <p>19 where you were born, what country you were born in.</p> <p>20 Q. Okay. If you took your birth certificate in,</p> <p>21 would it prove that Dan Patrick, the person standing</p> <p>22 in front of the DPS office, was -- should be -- should</p> <p>23 get his driver's license if he needs his -- a birth</p> <p>24 certificate for it?</p> <p>25 A. Would you mind repeating that for me?</p>

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76 (Pages 301 to 304)

<p style="text-align: right;">301</p> <p>1 Q. That's a bad question. Let me ask it again.</p> <p>2 A. Good. I thought I was confused.</p> <p>3 Q. No, no, no. When DPS requires a birth</p> <p>4 certificate, which is virtually what you have to do,</p> <p>5 what does that prove? Why is that proof good</p> <p>6 identification and citizenship?</p> <p>7 MS. DONNELLY: Objection. Form.</p> <p>8 A. I'd have to do some research and -- and find</p> <p>9 out what the thinking is on any agency, federal or</p> <p>10 state or local, that requires a birth certificate for</p> <p>11 anything, so...</p> <p>12 Q. (BY MR. DERFNER) What does a birth</p> <p>13 certificate prove?</p> <p>14 A. It proves when you were born and where you</p> <p>15 were born.</p> <p>16 Q. Okay. So if Dan Patrick took your birth</p> <p>17 certificate in, would it prove anything?</p> <p>18 A. It would prove where I was born and when I</p> <p>19 was born.</p> <p>20 Q. Where who was born? The name on the birth</p> <p>21 certificate, you told us earlier, is not Dan Patrick,</p> <p>22 right?</p> <p>23 A. That's correct. Right. Correct.</p> <p>24 Q. So if you took the birth certificate that</p> <p>25 accompanied your birth in, it wouldn't say anything</p>	<p style="text-align: right;">303</p> <p>1 Q. Well, do you recall when you went to get your</p> <p>2 license, did you bring in a birth certificate and a</p> <p>3 court order?</p> <p>4 MS. DONNELLY: Objection. He's already</p> <p>5 said he doesn't remember.</p> <p>6 A. I don't remember.</p> <p>7 MS. DONNELLY: We should move on,</p> <p>8 Armand.</p> <p>9 Q. (BY MR. DERFNER) So the question is: Why</p> <p>10 would the legislature give this free-floating</p> <p>11 authority to DPS to make state policy on such an</p> <p>12 important matter?</p> <p>13 MS. DONNELLY: Objection. Form.</p> <p>14 A. Again, I don't recall the specifics.</p> <p>15 My -- part of my reaction would be that they are</p> <p>16 already set up to do so. These EICs are similar to a</p> <p>17 driver's license. They take the place of a driver's</p> <p>18 license. They have the cameras there to take the</p> <p>19 photograph. They have the background check system so</p> <p>20 they can -- when you turn in your information, they</p> <p>21 can do -- to make sure it's accurate. That's where</p> <p>22 you get your driver's license. So it would make</p> <p>23 sense.</p> <p>24 We don't -- we wouldn't want to create a</p> <p>25 whole new agency to go to a whole new office. People</p>
<p style="text-align: right;">302</p> <p>1 about Dan Patrick, would it?</p> <p>2 A. No, but I would -- I would have my name</p> <p>3 change -- no different than a -- you know, it's more</p> <p>4 typical for a woman than a man to change their name in</p> <p>5 marriage. But many women change their name when they</p> <p>6 get married, and so you could make that same argument.</p> <p>7 But we do require -- TSA requires it, you</p> <p>8 know. You are required to have your driver's license</p> <p>9 in your name.</p> <p>10 Q. But what I'm getting at is, what did you have</p> <p>11 to do to get your driver's license?</p> <p>12 A. As I testified earlier, I don't recall when I</p> <p>13 originally got it.</p> <p>14 Q. And if you took your birth certificate in,</p> <p>15 you'd need another document, wouldn't you? You, I</p> <p>16 mean.</p> <p>17 A. Would I?</p> <p>18 Q. Yeah. Your birth certificate wouldn't tell</p> <p>19 who you were. I don't mean to be picking on you, but</p> <p>20 you have a special situation, right?</p> <p>21 A. Well, no, not special. Lots of people change</p> <p>22 their name. I mean, you know, half the population</p> <p>23 that gets married, or women -- and most women change</p> <p>24 their name when they get married, so they do the same</p> <p>25 thing.</p>	<p style="text-align: right;">304</p> <p>1 are familiar with DPS. And at least somebody in</p> <p>2 someone's family is familiar, "Oh, yeah, that's where</p> <p>3 I got my license, I can take you down to get your ID</p> <p>4 if..."</p> <p>5 Because, we're talking about people who don't</p> <p>6 have a driver's license. So it was the appropriate</p> <p>7 agency to handle it.</p> <p>8 And we, again, give rule-making authority.</p> <p>9 We -- we don't micromanage everything that an agency</p> <p>10 handles. We don't tell every agency exactly what to</p> <p>11 do in every situation. We pass legislation and the</p> <p>12 agency's enacted.</p> <p>13 Q. (BY MR. DERFNER) Why didn't you give it to</p> <p>14 the election officials?</p> <p>15 A. I just answered the question.</p> <p>16 Q. No, you told me what -- what the agencies do.</p> <p>17 You didn't tell me why you picked that agency.</p> <p>18 A. Well, I told you I didn't know why we picked</p> <p>19 that agency. But my speculation is, they were the</p> <p>20 ones already set up to do that.</p> <p>21 Q. When you say "that," what do you mean "that"?</p> <p>22 A. Walk in, get your photograph taken, had the</p> <p>23 driver's licenses that he actually made, the</p> <p>24 background checks done, they're the ones who do that.</p> <p>25 Q. And do they have any experience with voting?</p>

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<p style="text-align: right;">305</p> <p>1 A. This isn't about -- the DPS side of this 2 isn't about voting. It's about verifying that people 3 who -- are who they say they are, and they're the best 4 set up agency in the state, since they're issuing a 5 driver's license, to issue a similar card. 6 Q. So if the legislature wasn't deciding this 7 important voting question, and if DPS is set up just 8 to deal with the driver's license side, who was 9 looking out for the voters in this process? 10 MS. DONNELLY: Objection. This is just 11 argumentative. 12 MR. DERFNER: I don't think so. Do you 13 want me to rephrase it? 14 MS. DONNELLY: Counsel, really, let's 15 just ask substantive questions. It's the end of the 16 day. 17 MR. DERFNER: I understand. 18 Q. (BY MR. DERFNER) Who was looking out for the 19 voters in this process? 20 MS. DONNELLY: Objection. 21 Argumentative. 22 You can answer. 23 But I really think we need to move it 24 along. 25 A. I'm really done with the issue. I've</p>	<p style="text-align: right;">307</p> <p>1 speak for him. 2 Q. Anybody else? 3 A. The House sponsor or author that -- we call 4 sponsors in this case. 5 Q. You mean Ms. Harless? 6 A. Ms. Harless. 7 Q. Any staff people? 8 A. If there were, I wouldn't know who those 9 were. 10 Q. Okay. 11 MR. DERFNER: Okay. Thank you. 12 THE WITNESS: Well, thank you. 13 E X A M I N A T I O N 14 BY MR. CLAY: 15 Q. I've got a few follow-up questions for you. 16 I am going to try and go quick because I know you've 17 got to get home for dinner. 18 A. That's fine. 19 Q. My name is Reed Clay, and I'm representing 20 the State of Texas today and the various other 21 defendants in this case who are defending the voter ID 22 bill that you and the rest of the legislature passed 23 in 2011. 24 I just want to ask a few kind of clean-up 25 questions based upon your testimony earlier today.</p>
<p style="text-align: right;">306</p> <p>1 answered it multiple times. 2 Q. (BY MR. DERFNER) Okay. Let me just take a 3 second. 4 Senator Patrick -- 5 A. Yes, sir. 6 Q. -- I asked you a number of questions about 7 the legislative process and what you knew and didn't 8 know, et cetera. 9 Is there anybody besides you who would know 10 or who might know more about some of those things, or 11 might have known more about some of the questions I 12 asked about the legislative process? Is that a clear 13 enough question? 14 A. Yes. It would only be speculation on my part 15 because I can't speak for another senator. But the 16 author of the bill may, or may not. 17 And, again, to be clear, you know, I don't 18 recall -- you know, if -- if someone testified I was 19 in a conversation or there was a meeting or something, 20 I just don't remember those. And I'm not trying to be 21 vague. I just don't remember. 22 Q. So when you say the senator that authored the 23 bill, you mean Senator Fraser? 24 A. If there was someone who might be able to add 25 clarity, he might. But he might not be. I can't</p>	<p style="text-align: right;">308</p> <p>1 The same ground rules, if -- you know, if I say 2 something you don't understand, just let me know and 3 I'll clear it up for you. 4 You're not a lawyer, right? 5 A. Correct. 6 Q. Okay. But -- but we've had -- heard some 7 testimony today about the federal courts and -- and 8 perhaps the Supreme Court upholding Indiana's voter ID 9 law. 10 Are you aware that the Supreme Court has 11 upheld Indiana's voter ID law? 12 A. It's as I -- I believe I testified earlier 13 today: It seemed to me somewhere in the past that was 14 information that -- that I was aware of. 15 Q. Were you aware of it in 2011 when the 16 legislature passed the voter ID law? 17 A. I can't speak for certain, but I believe so. 18 Q. Are you aware that Georgia has a voter ID 19 law? 20 A. I think I've heard that. 21 Q. Are you aware that the Department of Justice 22 precleared Georgia's voter ID law under the Voting 23 Rights Act? 24 A. Actually, I do recall that story. 25 Q. We also -- you also talked a little bit about</p>

1	1	3
1	IN THE UNITED STATES DISTRICT COURT	1
2	FOR THE SOUTHERN DISTRICT OF TEXAS	2
3	CORPUS CHRISTI DIVISION	2
4	MARC VEASEY, et al.,)	3
5	Plaintiffs,)	4
6	v.) CIVIL ACTION NUMBER	5
7	RICK PERRY, et al.,) 2:13-cv-193(NGR)	6
8	Defendants.)	7
9	*****	8
10	ORAL 30 (b)(6) DEPOSITION OF THE TEXAS DEPARTMENT OF	9
11	PUBLIC SAFETY	10
12	JOE PETERS	11
13	APRIL 30, 2014	12
14	*****	13
15	ORAL DEPOSITION OF JOE PETERS, produced as a	14
16	witness at the instance of Plaintiffs, and duly sworn,	15
17	was taken in the above-styled and numbered cause on	16
18	April 30, 2014, from 8:54 a.m. to 4:52 p.m. before Kim	17
19	Seibert, CSR in and for the State of Texas, reported by	18
20	machine shorthand, at the law offices of DECHERT LLP,	19
21	300 West Sixth Street, Suite 2010, Austin, Texas,	20
22	pursuant to the Federal Rules of Civil Procedure and/or	21
23	the provisions stated on the record or attached hereto.	22
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25		24
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JOE PETERS

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2 (Pages 5 to 8)

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6	<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	8	<p>1 MR. FREEMAN: Okay. We're on the record.</p> <p>2 JOE PETERS,</p> <p>3 having been first duly sworn, testified as follows:</p> <p>4 EXAMINATION</p> <p>5 BY MR. FREEMAN:</p> <p>6 Q. Mr. Peters, thank you for taking the time for</p> <p>7 the deposition. If you could please state your name</p> <p>8 for the record.</p> <p>9 A. Joe Peters.</p> <p>10 Q. So my name is Dan Freeman, and I represent the</p> <p>11 United States of America in this matter. And I'll</p> <p>12 allow the others in the room -- we have several other</p> <p>13 attorneys in the room. I'll allow them to introduce</p> <p>14 themselves for the record as well.</p> <p>15 A. Okay.</p> <p>16 MR. BRAZIL: Scott Brazil for the</p> <p>17 Veasey plaintiffs.</p> <p>18 MR. DUNBAR: Kelly Dunbar for the Texas</p> <p>19 League of Young Voters Group.</p> <p>20 MR. ALI: Hasan Ali for the Texas League</p> <p>21 of Young Voters Group.</p> <p>22 MS. CLARK: Jennifer Clark for MALC and</p> <p>23 Texas NAACP.</p> <p>24 MS. RUDD: Amy Rudd for MALC and Texas</p> <p>25 NAACP.</p>

JOE PETERS

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8 (Pages 29 to 32)

<p style="text-align: right;">29</p> <p>1 Q. Were you the legislative liaison for DPS at</p> <p>2 the time that this was passed?</p> <p>3 A. No, sir.</p> <p>4 Q. Okay. Could you turn to Page 13 and take a</p> <p>5 look at Section 20?</p> <p>6 A. I'm there.</p> <p>7 Q. What is your best understanding of an</p> <p>8 election -- of the requirements of an election</p> <p>9 identification certificate based on your reading of</p> <p>10 Exhibit 37?</p> <p>11 MR. KEISTER: Objection, vague.</p> <p>12 Q. (BY MR. FREEMAN) You may answer.</p> <p>13 MR. KEISTER: You can answer.</p> <p>14 THE WITNESS: The Section 521A.001 says,</p> <p>15 "The department shall issue an election identification</p> <p>16 certificate to a person who states that the person is</p> <p>17 obtaining the certificate for the purposes of</p> <p>18 satisfying Section 63.001(b) of the election code and</p> <p>19 that person does not have another form of</p> <p>20 identification described by 63.0101 of the election</p> <p>21 code."</p> <p>22 Q. And that's -- that's the text of</p> <p>23 Section 521A.001, Sub (a)?</p> <p>24 A. Correct.</p> <p>25 Q. Okay. If you'll look at Section 20,</p>	<p style="text-align: right;">31</p> <p>1 identification?</p> <p>2 A. No, sir.</p> <p>3 Q. It only establishes that the department may</p> <p>4 require certain forms?</p> <p>5 A. Yes, sir.</p> <p>6 Q. And, to your knowledge, what information or</p> <p>7 data may the Department of Public Safety require an</p> <p>8 individual to provide?</p> <p>9 A. If you're talking about what 521.142 says</p> <p>10 specifically, I don't recall specifically the</p> <p>11 information that it requires. But, you know, we do</p> <p>12 require certain forms of identification.</p> <p>13 Q. And is it a matter of the department's</p> <p>14 discretion, then, to determine what an individual must</p> <p>15 require?</p> <p>16 A. Yes, sir.</p> <p>17 Q. Are you familiar with the regulations that the</p> <p>18 Department of Public Safety has promulgated in order to</p> <p>19 implement Section 521A.001(f) of the Texas</p> <p>20 Transportation Code?</p> <p>21 A. Are you referring to the administrative rule?</p> <p>22 Q. Is -- are -- is the administrative rules -- is</p> <p>23 that the term that you use to refer to regulations?</p> <p>24 A. Yes.</p> <p>25 Q. Then, yes.</p>
<p style="text-align: right;">30</p> <p>1 Subsection (f)?</p> <p>2 A. F as in Frank?</p> <p>3 Q. F as in Frank. What is your understanding of</p> <p>4 that provision?</p> <p>5 A. The -- the text says, "The department may</p> <p>6 require each applicant for an original or renewal</p> <p>7 election identification certificate to furnish to the</p> <p>8 department the information required by Section 521.142.</p> <p>9 Q. And that's Section 521.142 of the</p> <p>10 transportation code?</p> <p>11 A. Correct.</p> <p>12 Q. Does the statute require an applicant for an</p> <p>13 EIC to provide any particular information or data?</p> <p>14 A. Specific information?</p> <p>15 Q. Yes.</p> <p>16 MR. KEISTER: Objection, calls for a</p> <p>17 legal conclusion.</p> <p>18 But you can answer.</p> <p>19 THE WITNESS: I'm not certain exactly</p> <p>20 what 521 requires, whether it specifies a particular</p> <p>21 document. I believe -- I believe it doesn't, but I</p> <p>22 want to qualify the answer.</p> <p>23 Q. (BY MR. FREEMAN) I guess if I can refine my</p> <p>24 question. Does Subsection (f) require -- state that</p> <p>25 the department must require particular forms of</p>	<p style="text-align: right;">32</p> <p>1 A. Yes.</p> <p>2 (Exhibit No. 38 marked.)</p> <p>3 THE REPORTER: Exhibit 38.</p> <p>4 Q. (BY MR. FREEMAN) What is this document?</p> <p>5 A. This appears to be a copy of the Texas</p> <p>6 Administrative Code, Title 37, Part 1, Chapter 15.</p> <p>7 Q. Is this the complete set of regulations that</p> <p>8 DPS has promulgated to implement its election</p> <p>9 identification certificate program?</p> <p>10 A. I believe it is.</p> <p>11 Q. When were these promulgated?</p> <p>12 A. 2011.</p> <p>13 Q. Do you know more specifically?</p> <p>14 A. No, but I think it was in December.</p> <p>15 Q. Who drafted these regulations?</p> <p>16 A. This was before my time, but I'm advised by</p> <p>17 staff that it was a collaboration, and I think probably</p> <p>18 Janie Smith was the primary drafter, with the</p> <p>19 assistance and guidance from the Office of General</p> <p>20 Counsel.</p> <p>21 Q. And who is Janie Smith?</p> <p>22 A. She is in our policy and business improvement</p> <p>23 section of the customer support division.</p> <p>24 Q. Okay. And that collaborative process, could</p> <p>25 you explain the nature of that process?</p>

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<p style="text-align: right;">33</p> <p>1 A. Not for this. I wasn't there.</p> <p>2 Q. What is the general type of process that is</p> <p>3 used to develop regulations in areas under your</p> <p>4 supervision?</p> <p>5 A. The policy and business improvement staff</p> <p>6 identifies the -- the need for those rules and the</p> <p>7 language that needs to be in those rules for DPS to</p> <p>8 accomplish whatever it is we're trying to accomplish.</p> <p>9 And the policy and business improvement staff will --</p> <p>10 will develop a draft with -- in consultation with the</p> <p>11 Office of General Counsel to be sure that we've covered</p> <p>12 everything in statute that we're required to</p> <p>13 accomplish.</p> <p>14 Q. And who is required to approve those</p> <p>15 regulations once they've been drafted?</p> <p>16 A. Ultimately for the division?</p> <p>17 MR. KEISTER: You've got to slow down,</p> <p>18 let him pause.</p> <p>19 THE WITNESS: Okay.</p> <p>20 Would you restate your question?</p> <p>21 Q. (BY MR. FREEMAN) Who is ultimately -- who has</p> <p>22 to approve those regulations before they're finalized?</p> <p>23 A. Ultimately, I sign off on those.</p> <p>24 Q. Anyone above you?</p> <p>25 A. Well, let me back up. I sign off on those and</p>	<p style="text-align: right;">35</p> <p>1 at that point.</p> <p>2 Q. But if they are a registered voter, but do not</p> <p>3 have a copy of their voter registration card because</p> <p>4 they have lost it, how would they apply?</p> <p>5 A. They just attest that they are a registered</p> <p>6 voter.</p> <p>7 Q. And so an applicant who is a registered voter,</p> <p>8 in fact, does not have to present their voter</p> <p>9 registration card?</p> <p>10 A. That's correct.</p> <p>11 Q. Okay. Is it possible for the Department of</p> <p>12 Public Safety to query the Secretary of State's office</p> <p>13 to verify whether an individual is a registered voter?</p> <p>14 A. We -- I don't think we have direct connection</p> <p>15 with the Secretary of State to develop -- I mean, to</p> <p>16 determine whether or not a voter is registered. They</p> <p>17 sign the affidavit on the application form ensuring or</p> <p>18 saying that they are, and we take that. And from there</p> <p>19 it's out of our hands.</p> <p>20 Q. So there's no current process to do that?</p> <p>21 A. Not that I'm aware of.</p> <p>22 Q. Is there any technical impediment to doing</p> <p>23 that?</p> <p>24 A. Well, there is a technical impediment in that</p> <p>25 we don't have connectivity to the voter -- direct</p>
<p style="text-align: right;">34</p> <p>1 the Public Safety Commission has to approve final</p> <p>2 adoption of them once I've signed off on them.</p> <p>3 Q. And that -- the Public Safety Commission is a</p> <p>4 separate supervisory body that oversees the Department</p> <p>5 of Public Safety?</p> <p>6 A. Correct.</p> <p>7 Q. If you could please take a look at</p> <p>8 Section 15.181(c)(1)?</p> <p>9 A. C, as in Charles, 1?</p> <p>10 Q. C, as in Charles, 1.</p> <p>11 A. Okay.</p> <p>12 Q. Does this section require an applicant who is</p> <p>13 already a registered voter to present a voter</p> <p>14 registration card issued to that individual when</p> <p>15 applying for an election identification certificate?</p> <p>16 A. That's what the rule says.</p> <p>17 Q. If the registered voter has lost their card,</p> <p>18 are they unable to apply for an election identification</p> <p>19 certificate?</p> <p>20 A. No, they would still be able to apply for an</p> <p>21 election identification certificate.</p> <p>22 Q. How would they do that?</p> <p>23 A. They would specify on their application that</p> <p>24 they are a registered voter. If they're not a</p> <p>25 registered voter, they can apply for voter registration</p>	<p style="text-align: right;">36</p> <p>1 connectively to a voter registration file.</p> <p>2 Q. Could they call someone at the Secretary of</p> <p>3 State's office?</p> <p>4 A. I suppose they could.</p> <p>5 Q. Is there any legal impediment to doing that to</p> <p>6 your knowledge?</p> <p>7 A. Not that I'm aware of.</p> <p>8 Q. Could you please take a look at Section</p> <p>9 15.181(d)?</p> <p>10 A. B, as in boy?</p> <p>11 Q. D, as in --</p> <p>12 A. Oh, D, as in David?</p> <p>13 Q. -- as in David.</p> <p>14 A. Okay.</p> <p>15 Q. The term has been -- so -- sorry. Strike</p> <p>16 that.</p> <p>17 This provision bars an individual who has</p> <p>18 been issued certain documents that would be sufficient</p> <p>19 to cast an in-person ballot under S.B. 14 from</p> <p>20 obtaining an EIC, correct?</p> <p>21 A. Would you state your question again? I'm not</p> <p>22 sure I followed it.</p> <p>23 Q. Sure. This provision bars an individual who,</p> <p>24 quote, has been issued, close quote, a set of documents</p> <p>25 that are sufficient to cast an in-person ballot under</p>

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<p style="text-align: right;">37</p> <p>1 S.B. 14 from obtaining an EIC from DPS, correct?</p> <p>2 A. Yes.</p> <p>3 Q. What if that document has been lost or stolen?</p> <p>4 A. If the document has been lost or stolen,</p> <p>5 assuming that it's a driver's license or an ID card</p> <p>6 that was issued by DPS, we can determine whether or not</p> <p>7 they still have a valid card or still have a valid</p> <p>8 license, and we would issue the -- we would not issue</p> <p>9 the election identification certificate.</p> <p>10 Q. Is there a fee for an individual who has</p> <p>11 DPS-issued ID, but has lost that ID to obtain a new</p> <p>12 copy?</p> <p>13 A. Yes.</p> <p>14 Q. How does your office verify that an individual</p> <p>15 has been issued one of those sets of documents?</p> <p>16 A. We would query the driver's license system,</p> <p>17 the driver's license database, and determine whether or</p> <p>18 not there's a valid card or a valid issuance.</p> <p>19 Q. The driver's license database addresses both</p> <p>20 driver's licenses and Texas personal identification</p> <p>21 cards?</p> <p>22 A. Yes, sir.</p> <p>23 Q. Does -- would -- strike that.</p> <p>24 Does the department verify the license to</p> <p>25 carry database?</p>	<p style="text-align: right;">39</p> <p>1 license or an ID card that has expired no earlier than</p> <p>2 that 60 days, then we would not issue them an EIC.</p> <p>3 Q. So if an individual comes in seeking an EIC a</p> <p>4 month before an election --</p> <p>5 A. Uh-huh.</p> <p>6 Q. -- their ID has been expired for 45 days --</p> <p>7 A. Uh-huh.</p> <p>8 Q. -- you will not issue them an EIC at that</p> <p>9 time, correct?</p> <p>10 A. Correct.</p> <p>11 Q. They would need to come back closer to the</p> <p>12 election, correct?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. And if the individual's license expires</p> <p>15 the day before the election -- excuse me -- would be</p> <p>16 60 days expired the day before the election, they would</p> <p>17 not have to come back on that day, correct?</p> <p>18 A. I'm not sure I understand your question. But</p> <p>19 if you're saying that if their -- if their license</p> <p>20 expired the day before the election and they came in --</p> <p>21 Q. No. If their license was 60 days expired. So</p> <p>22 it would no longer --</p> <p>23 A. If it was already 60 days expired?</p> <p>24 Q. 59 days the day before the election, you would</p> <p>25 not issue them the EIC the day before the election even</p>
<p style="text-align: right;">38</p> <p>1 A. No, sir.</p> <p>2 Q. Does it check against any other forms of</p> <p>3 identification set out in this regulation?</p> <p>4 A. No, sir.</p> <p>5 Q. Okay. Is it correct that an individual whose</p> <p>6 identification will be expired by 60 days or more on</p> <p>7 the date of an upcoming election but whose ID is not</p> <p>8 expired by 60 days on the date of the application</p> <p>9 cannot apply for an EIC?</p> <p>10 A. They would -- they could apply.</p> <p>11 Q. They could apply --</p> <p>12 A. If --</p> <p>13 Q. -- notwithstanding the fact that their</p> <p>14 identification is not expired by 60 days or more on the</p> <p>15 date that they are applying?</p> <p>16 A. They could apply.</p> <p>17 Q. And so the -- the actual rule for DPS is not</p> <p>18 that the person has not been issued a driver's license</p> <p>19 that expired no earlier than 60 days before the date of</p> <p>20 the application, correct? That's not the rule?</p> <p>21 A. That is the rule.</p> <p>22 Q. So the rule is that an individual's driver's</p> <p>23 license has to be expired by 60 days or more on the</p> <p>24 date that they apply for an EIC, correct?</p> <p>25 A. The rule is that if they have a driver's</p>	<p style="text-align: right;">40</p> <p>1 though the election was the next day and the license</p> <p>2 would not be sufficient to vote under S.B. 14 on the</p> <p>3 election day, correct?</p> <p>4 A. Well, yeah, that would be correct.</p> <p>5 Q. Okay. Please look at Section 15.182. Am I</p> <p>6 correct that this says that all documents that are used</p> <p>7 to prove eligibility must be verifiable?</p> <p>8 A. You are correct.</p> <p>9 Q. What does verifiable mean?</p> <p>10 A. That means that if they use -- I don't know --</p> <p>11 proof of residence, a -- if they bring a passport in,</p> <p>12 for example, if they have a passport, we're not going</p> <p>13 to issue the EIC. I can't think off the top of my head</p> <p>14 what all we're talking about now. There's -- you know,</p> <p>15 you should have a list of the acceptable documents for</p> <p>16 identification, and if you have that I would be glad to</p> <p>17 look at it.</p> <p>18 Q. Well, in fact, this regulation does provide</p> <p>19 the list of acceptable documents.</p> <p>20 A. Yes.</p> <p>21 Q. And I guess maybe an easier way to ask the</p> <p>22 question is, what documents are not verifiable?</p> <p>23 A. I don't have the answer.</p> <p>24 Q. Are there any documents on this list in</p> <p>25 Section 15.182 that are -- that exist in any form that</p>

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<p style="text-align: right;">41</p> <p>1 the department would deem not verifiable?</p> <p>2 A. Okay. The Texas driver license would be</p> <p>3 verifiable. The personal identification card issued by</p> <p>4 the department would be verifiable. And then the</p> <p>5 secondary identification, a certified copy of a birth</p> <p>6 certificate would ultimately be verifiable. Not that</p> <p>7 it would be verifiable at the time of application by</p> <p>8 our customer service representative, but it would be</p> <p>9 verifiable.</p> <p>10 Original certified copy of the department</p> <p>11 of state certification at birth, we would not be able</p> <p>12 to verify on the spot. Original or certified copy of a</p> <p>13 court order with the name and date of birth indicating</p> <p>14 an official change of name would not verifiable on the</p> <p>15 spot, but would ultimately be verifiable.</p> <p>16 Q. Are there any that are listed here, that are</p> <p>17 listed in Section 15.182(4), the supporting</p> <p>18 identification, are there any of those documents that</p> <p>19 are potentially not verifiable?</p> <p>20 A. I believe all of those would be ultimately</p> <p>21 verifiable.</p> <p>22 Q. Okay. So the provision that all documents</p> <p>23 must be verifiable, that doesn't actually limit the use</p> <p>24 of any of these categories of documents listed later in</p> <p>25 the regulation; is that correct?</p>	<p style="text-align: right;">43</p> <p>1 issuing driver licenses and ID cards as a matter of</p> <p>2 business daily, that the election identification, or</p> <p>3 EIC, certificate issuance was as similar as possible.</p> <p>4 Q. So --</p> <p>5 A. So they would be looking for basically the</p> <p>6 same -- I'm sorry. They would be looking for the same</p> <p>7 documents for an EIC, the same documentation for an</p> <p>8 EIC, although the data entry screen for an EIC is</p> <p>9 separate and distinct from that of a driver license or</p> <p>10 an ID card application.</p> <p>11 Q. So the purpose of modeling this list of</p> <p>12 required documents was to reduce the administrative</p> <p>13 burden on CSRs?</p> <p>14 A. Reduce the administrative burden and reduce</p> <p>15 the chance for error.</p> <p>16 Q. And also to reduce the burden on perhaps the</p> <p>17 programmers who put together the interface for the</p> <p>18 CSRs?</p> <p>19 A. Possibly, yes, sir.</p> <p>20 Q. But not necessarily to reduce the burden on</p> <p>21 individuals who are applying for an EIC?</p> <p>22 A. Correct. My understanding was that the</p> <p>23 thinking was if -- if individuals were accustomed to</p> <p>24 what they had to have for -- for driver's license or</p> <p>25 ID card issuance and knew that the same was applicable</p>
<p style="text-align: right;">42</p> <p>1 A. That's correct.</p> <p>2 Q. Okay. How was this list of documents created,</p> <p>3 the documents required for obtaining an EIC?</p> <p>4 A. I don't know that.</p> <p>5 Q. Does it appear to be modeled on any other</p> <p>6 provision set out by DPS?</p> <p>7 A. It does.</p> <p>8 Q. And what provision is that?</p> <p>9 A. That would be the requirements for driver</p> <p>10 license identification and ID card identification.</p> <p>11 Q. And what was the basis for using the driver's</p> <p>12 license or personal identification card requirements as</p> <p>13 the requirements for an election identification</p> <p>14 certificate?</p> <p>15 A. Continuity of the process. The customer</p> <p>16 service representatives, which if I can, I would refer</p> <p>17 to them as "CSRs" going forward, if that's all right.</p> <p>18 Q. Okay.</p> <p>19 A. The CSRs are accustomed to the requirement for</p> <p>20 a driver license and for ID card. And the process for</p> <p>21 entering data and issuing the driver's license and ID</p> <p>22 card, my understanding from staff discussions, was that</p> <p>23 thinking back in 2011 when they started putting the EIC</p> <p>24 process together that there would be less chance for</p> <p>25 error if the customer service representative that was</p>	<p style="text-align: right;">44</p> <p>1 to the EIC, there would be less confusion on the part</p> <p>2 of the applicant for an EIC.</p> <p>3 Q. And if -- by "individuals" you mean CSRs,</p> <p>4 correct?</p> <p>5 A. Yes.</p> <p>6 Q. Not applicants?</p> <p>7 A. Well, no, I'm talking about applicants.</p> <p>8 Q. But applicants for EICs are individuals who</p> <p>9 are not accustomed to holding --</p> <p>10 A. That's correct. That's correct.</p> <p>11 Q. Thank you. If you could look at</p> <p>12 Section 15.182(2), "Primary Identification."</p> <p>13 A. Uh-huh.</p> <p>14 Q. Am I correct that the only form of primary</p> <p>15 identification that is independently sufficient to</p> <p>16 establish EIC eligibility is a driver's license or ID</p> <p>17 card that is expired for more than 60 days, but less</p> <p>18 than two years?</p> <p>19 A. Yes, sir.</p> <p>20 Q. Why was this time period selected?</p> <p>21 A. I don't know.</p> <p>22 Q. What is this time period based on?</p> <p>23 A. The -- the driver license rule.</p> <p>24 Q. And the -- what is the driver license rule?</p> <p>25 A. That if you come in with an expired driver's</p>

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<p style="text-align: right;">45</p> <p>1 license you can -- that's been expired for 60 days, but</p> <p>2 less than two years, you can apply for re-issuance</p> <p>3 without testing. If it exceeds two years, then you</p> <p>4 have to go through retest.</p> <p>5 Q. By "retest" you mean test your driving</p> <p>6 ability?</p> <p>7 A. Correct.</p> <p>8 Q. Does a driver's license that has expired for</p> <p>9 less than two years establish identity?</p> <p>10 A. In most cases, yes. It depends on when that</p> <p>11 driver's license was initially issued. If under the</p> <p>12 Real ID Act -- Texas is not fully compliant yet with</p> <p>13 Real ID, but we're working toward that, and we require</p> <p>14 lawful presence verification now. And some of the</p> <p>15 older licensees may not have had lawful presence</p> <p>16 established, and the -- the system will say</p> <p>17 "citizenship not verified." So then we would require</p> <p>18 them to prove lawful presence.</p> <p>19 Q. But in terms of identity, in terms of proving</p> <p>20 that a person is who they say they are, does a driver's</p> <p>21 license that is expired for two years establish</p> <p>22 identity?</p> <p>23 A. Less than two years?</p> <p>24 Q. Yes.</p> <p>25 A. Yes.</p>	<p style="text-align: right;">47</p> <p>1 Q. Okay. Are there any computerized checks of</p> <p>2 citizenship that are made?</p> <p>3 A. Yes.</p> <p>4 Q. What type of computerized checks are made?</p> <p>5 A. We use the -- a federal database. The</p> <p>6 systematic -- well, one of them is the systematic alien</p> <p>7 verification for entitlements to establish lawful</p> <p>8 presence if the individual is not a citizen.</p> <p>9 Q. If --</p> <p>10 A. And then we rely on -- I'm sorry. Go ahead.</p> <p>11 Q. Is that computerized check conducted for every</p> <p>12 individual who applies for an EIC?</p> <p>13 A. Yes, I believe that's -- that's actually done</p> <p>14 in the -- well, I better not answer that one that way</p> <p>15 because I'm not real sure. I'm thinking of the quality</p> <p>16 assurance process that we go through once an EIC is</p> <p>17 issued. Our -- we have a -- our license and records</p> <p>18 service is doing quality assurance on every EIC that's</p> <p>19 issued.</p> <p>20 Once they -- once the card -- or once the</p> <p>21 application hits the database, then EIC staff -- I</p> <p>22 mean, the -- the license of records, or LRS staff,</p> <p>23 looks at every application in the database to be sure</p> <p>24 that all the documentation that's required to prove</p> <p>25 citizenship and birth and so forth is in the database.</p>
<p style="text-align: right;">46</p> <p>1 Q. Does it establish citizenship?</p> <p>2 A. Not necessarily.</p> <p>3 Q. Is it, nonetheless, sufficient to obtain an</p> <p>4 EIC if you have a driver's license that is expired by</p> <p>5 less than two years?</p> <p>6 A. Less, yes.</p> <p>7 Q. Are you certain that DPS offices are not</p> <p>8 requiring additional proof of citizenship from</p> <p>9 individuals who present driver's licenses that are</p> <p>10 expired for less than two years and attempt to obtain</p> <p>11 an EIC?</p> <p>12 A. I can't say that I'm certain, because with</p> <p>13 over 2,000 employees out there, some of them may</p> <p>14 inadvertently require more than -- or ask for more than</p> <p>15 what we actually require.</p> <p>16 Q. Are you taking any efforts to audit or</p> <p>17 supervise this process?</p> <p>18 A. Yes, we are.</p> <p>19 Q. And have you been made aware of any instances</p> <p>20 in which CSRs have asked for additional proof of</p> <p>21 citizenship?</p> <p>22 A. Beyond what is required here?</p> <p>23 Q. Yes.</p> <p>24 A. I'm not aware of any. That's not to say that</p> <p>25 they haven't occurred.</p>	<p style="text-align: right;">48</p> <p>1 Q. Is -- is that the same level of scrutiny</p> <p>2 provided to driver's licenses and identification cards?</p> <p>3 A. Yes, but on -- usually on a local level in a</p> <p>4 spot check.</p> <p>5 Q. So it's an audit for driver's licenses and</p> <p>6 identification cards, but it's a check for every EIC;</p> <p>7 is that correct?</p> <p>8 A. Yeah. And when -- when we're talking about</p> <p>9 the audit for driver licenses, we process 7 million</p> <p>10 applications a year, and it's next to impossible to --</p> <p>11 to individually scrutinize each one of those</p> <p>12 transactions. But because we're going to -- with</p> <p>13 respect to the issuance of EICs, we're going to err on</p> <p>14 the side of issuance. And there may be cases -- there</p> <p>15 have been cases where an individual came in and applied</p> <p>16 for an EIC and during the quality assurance process we</p> <p>17 found out that they were not eligible most of the time</p> <p>18 because they had a passport or they -- they had a valid</p> <p>19 Texas ID card, various other reasons.</p> <p>20 Q. And how are you verifying that an</p> <p>21 individual -- or determining that an individual has a</p> <p>22 passport?</p> <p>23 A. In most cases they -- they tell us they have a</p> <p>24 passport, and for whatever reason it -- it gets past</p> <p>25 the CSR.</p>

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13 (Pages 49 to 52)

<p style="text-align: right;">49</p> <p>1 Q. So that's on the application, correct?</p> <p>2 A. Yes, uh-huh.</p> <p>3 Q. Okay. And in terms of the computerized</p> <p>4 checks, while those are being run against federal</p> <p>5 databases like SAVE, an individual is issued a</p> <p>6 temporary EIC that they can use, correct?</p> <p>7 A. Correct. Correct.</p> <p>8 Q. Okay. What is the security benefit to the</p> <p>9 election process of requiring an individual who has a</p> <p>10 driver's license that has been expired for 61 days to</p> <p>11 go to DPS and obtain an EIC rather than using their</p> <p>12 driver's license?</p> <p>13 A. I'm not sure that there's an additional</p> <p>14 benefit except that if they get the EIC, the data is</p> <p>15 more current, the photo is more current. Generally</p> <p>16 with a driver license the picture can be as old as</p> <p>17 12 years.</p> <p>18 Q. But if an individual had not -- had a new</p> <p>19 driver's license, not a renewed driver's license that</p> <p>20 expired --</p> <p>21 A. Uh-huh.</p> <p>22 Q. -- by 61 days, that could be a newer photo</p> <p>23 than someone who has a driver's license that's about to</p> <p>24 expire, but that had renewed that driver's license once</p> <p>25 without getting a new photograph, correct?</p>	<p style="text-align: right;">51</p> <p>1 Q. But it's your testimony that that expired</p> <p>2 driver's license does not establish the individual's</p> <p>3 identity?</p> <p>4 A. No, sir -- or, yes, sir, that's true.</p> <p>5 Q. Can expired driver's licenses or</p> <p>6 identification cards be used for any other purpose?</p> <p>7 A. I'm not aware of what else they could be used</p> <p>8 for.</p> <p>9 Q. If you could take a look at Section 15.182(3),</p> <p>10 which is the secondary identification, what is the</p> <p>11 purpose of requiring this set of documents?</p> <p>12 A. To help determine identity that the applicant</p> <p>13 is who they say they are.</p> <p>14 Q. Only identity?</p> <p>15 A. It could be citizenship if -- in the case of</p> <p>16 birth certificates, it could be name change, could be</p> <p>17 citizenship in terms of naturalization documents.</p> <p>18 Q. How do the secondary identification documents</p> <p>19 differ from the supporting identification documents?</p> <p>20 A. Well, in my mind, the secondary identification</p> <p>21 document is a more secure or more sure form of</p> <p>22 identification than the supporting identification</p> <p>23 documents would be.</p> <p>24 Q. Isn't it the case that these all establish</p> <p>25 citizenship?</p>
<p style="text-align: right;">50</p> <p>1 A. Yes.</p> <p>2 Q. Does a driver's license or identification card</p> <p>3 that's expired by more than two years establish an</p> <p>4 individual's identity?</p> <p>5 A. No.</p> <p>6 Q. Isn't it correct that a driver's license that</p> <p>7 has expired by more than two years can be used as</p> <p>8 supporting identification to obtain an EIC?</p> <p>9 A. As supporting identification.</p> <p>10 Q. And for that purpose does it establish an</p> <p>11 individual's identity?</p> <p>12 A. Not in itself, I wouldn't think. Not by</p> <p>13 itself.</p> <p>14 Q. Can an expired Texas driver's license, along</p> <p>15 with a non -- a form of non-photographic</p> <p>16 identification, such as a birth certificate, be used to</p> <p>17 obtain an EIC with no other photographic</p> <p>18 identification?</p> <p>19 A. Say that again now. I'm sorry.</p> <p>20 Q. Can an expired Texas driver's license by more</p> <p>21 than two years be used along with a non-photographic</p> <p>22 document, such as birth certificate, to obtain an EIC?</p> <p>23 A. That can be -- that -- that expired driver's</p> <p>24 license could be used as a form of supporting</p> <p>25 identification.</p>	<p style="text-align: right;">52</p> <p>1 A. Yes.</p> <p>2 Q. Okay. But, of course, an individual can</p> <p>3 obtain an EIC without proof of citizenship if they</p> <p>4 provide a Texas driver's license that's been expired</p> <p>5 for less than two years, correct?</p> <p>6 A. Yes, sir. Yes, sir.</p> <p>7 Q. Is it necessary to provide documentary proof</p> <p>8 of citizenship in Texas in order to register to vote?</p> <p>9 A. Provide proof of citizenship in order to</p> <p>10 register to vote?</p> <p>11 Q. Documentary proof of citizenship.</p> <p>12 A. I'm not aware that it is.</p> <p>13 Q. It is necessary to obtain -- or to provide</p> <p>14 documentary proof of citizenship in order to obtain a</p> <p>15 driver's license or an identification card in Texas?</p> <p>16 A. Yes.</p> <p>17 Q. Proof of citizenship --</p> <p>18 A. Yes.</p> <p>19 Q. -- or lawful presence?</p> <p>20 A. Well, lawful presence.</p> <p>21 Q. So a noncitizen --</p> <p>22 A. So a noncitizen could obtain -- could obtain a</p> <p>23 driver's license or an ID card.</p> <p>24 Q. Can a noncitizen obtain a license to carry?</p> <p>25 A. I'm not aware whether they can or not.</p>

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14 (Pages 53 to 56)

<p style="text-align: right;">53</p> <p>1 Q. So this proof of citizenship requirement for</p> <p>2 an EIC is an additional burden for individuals for</p> <p>3 attempting to vote using an EIC that doesn't exist for</p> <p>4 individuals who attempt to vote using a driver's</p> <p>5 license or identification card, correct?</p> <p>6 A. That's my understanding.</p> <p>7 Q. Please look at Section 15.182(4), which is</p> <p>8 supporting identification. What is the purpose of this</p> <p>9 set of documents?</p> <p>10 A. Supporting identification will aid the</p> <p>11 customer service representatives or the person doing</p> <p>12 the issuance in establishing the identity of the</p> <p>13 applicant.</p> <p>14 Q. Under Sub (d) --</p> <p>15 A. (E).</p> <p>16 Q. -- or -- sorry. Sub (c). Sorry. Why must an</p> <p>17 insurance policy be at least two years old?</p> <p>18 A. I have no idea.</p> <p>19 Q. Okay. Why must a military dependent</p> <p>20 identification card under Sub (f) be unexpired when</p> <p>21 compared to a driver's license which may be expired?</p> <p>22 A. I don't have that answer either.</p> <p>23 Q. Why must an out-of-state driver's license or</p> <p>24 identification card have been expired within two years</p> <p>25 when a Texas driver's license or identification card</p>	<p style="text-align: right;">55</p> <p>1 Q. More than likely?</p> <p>2 A. Yes.</p> <p>3 Q. Is that in the discretion of the CSR?</p> <p>4 A. That would be in the discretion of the CSR,</p> <p>5 and then final evaluation would be made at quality</p> <p>6 assurance.</p> <p>7 Q. If a CSR declines to provide a -- an EIC based</p> <p>8 on disagreement in the names that are underlying the</p> <p>9 application on the supporting documents, can an</p> <p>10 individual appeal that to any kind of supervisor?</p> <p>11 A. Well, that -- yeah, the supervisor -- the CSRs</p> <p>12 are instructed if they have a question about the name</p> <p>13 that they seek guidance from their -- their local</p> <p>14 supervisor.</p> <p>15 Q. Is the substantially -- sorry. Is the</p> <p>16 substantially similar rule that you described earlier,</p> <p>17 is that only with regard to first names?</p> <p>18 A. No.</p> <p>19 Q. So last names as well?</p> <p>20 A. Yes, sir.</p> <p>21 Q. If there is a disagreement because of an</p> <p>22 individual's name having been changed, such as a woman</p> <p>23 getting married, so that her first name remains the</p> <p>24 same, but the last name is entirely different --</p> <p>25 A. Uh-huh.</p>
<p style="text-align: right;">54</p> <p>1 can be expired for any amount of time?</p> <p>2 A. I don't have that answer.</p> <p>3 Q. There are several other documents on this list</p> <p>4 that never expire, such as school records or military</p> <p>5 records, correct?</p> <p>6 A. Correct.</p> <p>7 Q. Why are those acceptable when other documents</p> <p>8 must have been expired within a certain amount of time?</p> <p>9 A. I don't have a good answer for that.</p> <p>10 Q. Can you please take a look at</p> <p>11 Section 15.183(a)(1)? And this sets out the</p> <p>12 applicant's full name that must be included on an</p> <p>13 application for an election identification certificate.</p> <p>14 Does that full name have to match all the underlying</p> <p>15 documents that are provided with the application?</p> <p>16 A. Yes.</p> <p>17 Q. If there is a disagreement between an</p> <p>18 individual's voter registration record and that</p> <p>19 individual's expired driver's license with regard to a</p> <p>20 first name, will those documents be sufficient to</p> <p>21 obtain an election identification certificate?</p> <p>22 A. If the applicant is otherwise eligible for the</p> <p>23 election identification certificate and if the name</p> <p>24 is -- the entire name is substantially the same, they</p> <p>25 would more than likely be issued the EIC.</p>	<p style="text-align: right;">56</p> <p>1 Q. -- will that application for an EIC be</p> <p>2 granted?</p> <p>3 A. It -- it may not. It does just depends on</p> <p>4 what supporting documentation the applicant can provide</p> <p>5 that will convince the -- the issuing CSR that she's</p> <p>6 who she said she is.</p> <p>7 Q. So if Jane Smith married John Jones and her</p> <p>8 driver's license says Jane Smith, but her voter</p> <p>9 registration card says Jane Jones, would that be</p> <p>10 granted without any other documentation?</p> <p>11 A. I'm sorry. If -- what is she showing you</p> <p>12 when -- the CSR when she comes in?</p> <p>13 Q. She's showing a driver's license that expired</p> <p>14 two years ago --</p> <p>15 A. Okay.</p> <p>16 Q. -- that says Jane Smith. She's showing a more</p> <p>17 recent voter registration card that says Jane Jones</p> <p>18 because she got married to lucky John Jones.</p> <p>19 A. Uh-huh.</p> <p>20 Q. Would that be sufficient to obtain an election</p> <p>21 identification card?</p> <p>22 A. Without documentation to show the marriage, I</p> <p>23 would say no.</p> <p>24 Q. Okay. And if there is a disagreement in the</p> <p>25 documents, but they're substantially similar; say,</p>

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<p style="text-align: right;">57</p> <p>1 Jane Smith and Janie Smith, would the EIC be issued</p> <p>2 under the name Jane Smith or Janie Smith or would it be</p> <p>3 her choice?</p> <p>4 A. It would be her choice based on what the</p> <p>5 documentation that she has provided.</p> <p>6 Q. So she could provide either of these</p> <p>7 substantially similar variations on the application and</p> <p>8 that would be fine?</p> <p>9 A. That's my understanding.</p> <p>10 Q. Okay. Is there any written guidance</p> <p>11 concerning this substantially -- substantial similarity</p> <p>12 rule?</p> <p>13 A. I'm not aware of it.</p> <p>14 Q. Do you know if it is any more stringent than</p> <p>15 the rule that is used to compare a voter's name at the</p> <p>16 voter registration table when they vote and the ID that</p> <p>17 they show under S.B. 14?</p> <p>18 A. Am I aware of a difference?</p> <p>19 Q. Yes.</p> <p>20 A. No.</p> <p>21 Q. Is it the same rule?</p> <p>22 A. As far as I know.</p> <p>23 Q. Okay. Could you take a look at</p> <p>24 Section 15.183(a)(3)?</p> <p>25 A. Okay.</p>	<p style="text-align: right;">59</p> <p>1 Q. When was the practice changed?</p> <p>2 A. I'm sorry?</p> <p>3 Q. When was this practice changed?</p> <p>4 A. I think it was toward the end of September</p> <p>5 of 2013.</p> <p>6 Q. Are you confident that no driver's license</p> <p>7 office or mobile EIC station or county office that is</p> <p>8 accepting EIC applications is currently requiring</p> <p>9 fingerprinting as part of the EIC application process?</p> <p>10 A. That's currently requiring them?</p> <p>11 Q. Yes.</p> <p>12 A. I am confident that none of them are requiring</p> <p>13 them. There again, with as many customer service</p> <p>14 representatives as there are out there and because the</p> <p>15 process changes, they have to get the fingerprint for a</p> <p>16 driver license application, for an ID card application,</p> <p>17 and it's -- it's a check box on the EIC data entry</p> <p>18 screen where they bypass the fingerprint.</p> <p>19 Q. Okay.</p> <p>20 A. And there have been a couple of occasions</p> <p>21 where a CSR failed to bypass it, and it won't let you</p> <p>22 continue the application process until you either take</p> <p>23 the thumbprint or the fingerprint or you check the box</p> <p>24 to bypass it.</p> <p>25 Q. When the fingerprint requirement was in</p>
<p style="text-align: right;">58</p> <p>1 Q. Who at DPS -- sorry. First off, does this</p> <p>2 require that an individual requesting an election</p> <p>3 identification certificate submit to fingerprinting?</p> <p>4 A. The current rule does require.</p> <p>5 Q. Who at DPS decided to include this</p> <p>6 requirement?</p> <p>7 A. Oh, that was decided before my time, but it</p> <p>8 was -- it was part of the process of trying to ensure</p> <p>9 that the EIC process -- or EIC issuance process was as</p> <p>10 similar as possible to driver license and ID cards.</p> <p>11 However, since this was -- this rule was adopted in</p> <p>12 2011, I believe it was, we have determined -- the</p> <p>13 Secretary of State, in discussion with them, had</p> <p>14 concern that we were requiring fingerprint of an EIC</p> <p>15 applicant, and upon review we determined that we had no</p> <p>16 use for a fingerprint on an EIC application. You know,</p> <p>17 we weren't going to do anything with them anyway. It</p> <p>18 was a thumbprint. And we saw no reason to require a</p> <p>19 fingerprint. And we sent directives to the field that</p> <p>20 we would no longer require a fingerprint for an EIC</p> <p>21 application.</p> <p>22 And the -- the belief there was that it's</p> <p>23 a rule that was adopted by DPS and we felt like we</p> <p>24 could make enforcement of that rule less restrictive,</p> <p>25 but we couldn't make one more restrictive.</p>	<p style="text-align: right;">60</p> <p>1 effect, what did DPS do with the fingerprints?</p> <p>2 A. Nothing.</p> <p>3 Q. There was no type of check?</p> <p>4 A. No.</p> <p>5 Q. Didn't check the Texas Criminal Information</p> <p>6 Center?</p> <p>7 A. No, sir.</p> <p>8 Q. No warrant check?</p> <p>9 A. No, sir.</p> <p>10 Q. No tickets?</p> <p>11 A. No, sir.</p> <p>12 Q. Didn't check the National Criminal Information</p> <p>13 Center?</p> <p>14 A. No, sir.</p> <p>15 Q. Any other regular checks?</p> <p>16 A. No, sir.</p> <p>17 (Exhibit No. 39 marked.)</p> <p>18 THE REPORTER: Exhibit 39.</p> <p>19 Q. (BY MR. FREEMAN) Have you seen this article</p> <p>20 before?</p> <p>21 A. Yes, I have.</p> <p>22 Q. And what is this document?</p> <p>23 A. This is -- excuse me. It looks like a</p> <p>24 transcript of an article that appeared in the Fort</p> <p>25 Worth Star Telegram in September of 2013.</p>

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16 (Pages 61 to 64)

<p style="text-align: right;">61</p> <p>1 Q. And does this article state that more than one</p> <p>2 DPS employee said during the week of September 19th,</p> <p>3 2013, that, "If you can't pass a warrant check, you</p> <p>4 can't walk in and get a voter ID and, if you try, you</p> <p>5 won't walk back out"?</p> <p>6 A. That's what the article says.</p> <p>7 Q. But it's your understanding that at no point</p> <p>8 those CSRs were running warrant checks on individuals</p> <p>9 who were obtaining -- or were attempting to obtain an</p> <p>10 EIC?</p> <p>11 A. That's correct.</p> <p>12 Q. And so those -- those DPS employees were</p> <p>13 telling reporters that they were running warrant</p> <p>14 checks, but they weren't running warrant checks?</p> <p>15 A. That's --</p> <p>16 MR. KEISTER: Objection, form, calls for</p> <p>17 speculation.</p> <p>18 Q. (BY MR. FREEMAN) That's your understanding of</p> <p>19 those statements?</p> <p>20 A. Yes, sir.</p> <p>21 Q. Who is Tom Vinger?</p> <p>22 A. He is our -- one of the staff in the public</p> <p>23 information office, or media and communications office</p> <p>24 it is.</p> <p>25 Q. And -- and this article states that Mr. Vinger</p>	<p style="text-align: right;">63</p> <p>1 running a warrant check.</p> <p>2 And -- and at the time Mr. Vinger made</p> <p>3 this comment, he was not aware of that, nor were some</p> <p>4 of the CSRs aware that that was not happening. As a</p> <p>5 matter of fact, we weren't aware of it until we went to</p> <p>6 explore what was going on with it, because no one was</p> <p>7 ever -- was ever turned away because of a warrant for</p> <p>8 an EIC applicant.</p> <p>9 Q. (BY MR. FREEMAN) Has DPS promulgated any</p> <p>10 rules or notices in order to combat this perception</p> <p>11 that a warrant check will be run?</p> <p>12 A. Well, as far as promulgating rules, published</p> <p>13 rules in the administrative code, I don't recall that</p> <p>14 there were. There have been directives to the field</p> <p>15 that there will be no warrant checks. And, in fact, in</p> <p>16 the EIC application screen there is no capability to</p> <p>17 run a warrant check. And even in the driver's license</p> <p>18 screen, they can't arbitrarily run a warrant check.</p> <p>19 In the driver's license application</p> <p>20 process and the ID card application process, once</p> <p>21 sufficient data, identifying data, for an applicant is</p> <p>22 in there, the system goes and runs the warrant check</p> <p>23 automatically. And what it returns is there's a</p> <p>24 warrant -- a notice on the screen that says there's a</p> <p>25 warrant. And then the CSR contacts local law</p>
<p style="text-align: right;">62</p> <p>1 had told the reporter that it's routine to check anyone</p> <p>2 at a license office for warrants?</p> <p>3 A. Where do you see that?</p> <p>4 Q. Starting -- the line starting, "Just the day</p> <p>5 before."</p> <p>6 A. Yes, sir, I see that. And now what's your</p> <p>7 question?</p> <p>8 Q. Would -- knowing Mr. Vinger, would Mr. Vinger</p> <p>9 have misrepresented to a reporter that it was routine</p> <p>10 for every DPS interaction to include a warrant check?</p> <p>11 MR. KEISTER: Objection, form, calls for</p> <p>12 speculation, and also no basis of foundation.</p> <p>13 Q. (BY MR. FREEMAN) I'm asking based on your</p> <p>14 knowledge of Mr. Vinger's veracity.</p> <p>15 MR. KEISTER: Same objections.</p> <p>16 THE WITNESS: I have no question about</p> <p>17 his veracity. What I do believe with respect to</p> <p>18 that -- to that statement was that there was a common</p> <p>19 belief that the EIC -- excuse me -- the EIC database</p> <p>20 and the data entry screens actually automatically ran a</p> <p>21 warrant check on an applicant when, in fact, it did</p> <p>22 not. It does do an automatic warrant check on a</p> <p>23 driver's license applicant or a Texas ID card</p> <p>24 applicant, but at no time was the EIC application</p> <p>25 screen or the EIC application process automatically</p>	<p style="text-align: right;">64</p> <p>1 enforcement or a trooper, if there happens to be one in</p> <p>2 the office, to handle it from that point on. The CSR</p> <p>3 doesn't know what the warrant is for typically.</p> <p>4 In the case of EICs, there's no warrant</p> <p>5 check run and they don't even have the capability to</p> <p>6 run one.</p> <p>7 Q. How long are fingerprint records maintained</p> <p>8 once they're taken by DPS?</p> <p>9 A. I don't know. I would assume forever, but I</p> <p>10 don't know that answer.</p> <p>11 Q. So the fingerprint records that were taken</p> <p>12 while DPS was still requiring fingerprints as part of</p> <p>13 the EIC application process, those are still maintained</p> <p>14 in the DPS database somewhere?</p> <p>15 A. I'm not sure they are. Those may have been</p> <p>16 deleted.</p> <p>17 Q. But you don't know?</p> <p>18 A. I don't know for sure, no, sir.</p> <p>19 Q. Are individuals informed of any potential</p> <p>20 future use of the EIC?</p> <p>21 A. Of the --</p> <p>22 Q. Oh, sorry. Of the fingerprint that's taken?</p> <p>23 A. On -- on EICs?</p> <p>24 Q. Yes.</p> <p>25 A. Well, no, we're not taking fingerprints on</p>

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17 (Pages 65 to 68)

<p style="text-align: right;">65</p> <p>1 EICs.</p> <p>2 Q. But the ones that were taken --</p> <p>3 A. No --</p> <p>4 Q. -- before the process --</p> <p>5 A. -- not that I'm aware.</p> <p>6 Q. Okay. Do you have discretion; "you," being</p> <p>7 DPS, to begin taking fingerprints at any time under the</p> <p>8 existing regulation?</p> <p>9 A. Yes, we do under existing regulations.</p> <p>10 Q. Are there any plans to amend the regulation?</p> <p>11 A. Absolutely not.</p> <p>12 Q. Why not?</p> <p>13 A. As I said before, we don't -- we don't see a</p> <p>14 need for taking a fingerprint on -- on an EIC</p> <p>15 applicant.</p> <p>16 Q. But are -- are there any -- given that the</p> <p>17 regulation currently states that a fingerprint is</p> <p>18 required, why would DPS not change the regulation?</p> <p>19 A. Because we don't see a need to take the -- oh,</p> <p>20 you're talking about change the regulation to --</p> <p>21 Q. To eliminate --</p> <p>22 A. Yes, we can do that. I'm sorry.</p> <p>23 Q. Is there any current plan to do so?</p> <p>24 A. As far as a written documented plan to do so,</p> <p>25 no, I can't tell you when that's going to happen. But</p>	<p style="text-align: right;">67</p> <p>1 public perception that interactions with DPS will</p> <p>2 trigger a check for warrants?</p> <p>3 A. There is that public perception in some</p> <p>4 circles.</p> <p>5 Q. Is law enforcement present at DPS offices that</p> <p>6 issue driver's licenses and EICs?</p> <p>7 A. Some of those there are.</p> <p>8 Q. What is the distinction between the offices</p> <p>9 that have law enforcement present and those that don't?</p> <p>10 A. Some of the driver's license offices are</p> <p>11 co-located with highway patrol and rangers and criminal</p> <p>12 investigation divisions, so forth, so there may be law</p> <p>13 enforcement in the building. Some of the larger</p> <p>14 offices; our mega centers, for example, have a trooper</p> <p>15 assigned to the -- to the office to handle warrants for</p> <p>16 driver license and ID card applicants. They're</p> <p>17 generally not present in the -- excuse me -- in the</p> <p>18 issuance area, but they're readily available.</p> <p>19 Q. And those larger offices, those are generally</p> <p>20 in urban areas?</p> <p>21 A. Yes, sir.</p> <p>22 Q. So it's more likely that offices in urban</p> <p>23 areas will have law enforcement present?</p> <p>24 A. Yes, sir. I think that's a safe statement.</p> <p>25 Q. Is there any rule authorizing law enforcement</p>
<p style="text-align: right;">66</p> <p>1 I can assure you that we will be doing that.</p> <p>2 Q. When did those discussions occur?</p> <p>3 A. Periodically since the September timeframe of</p> <p>4 2013 to present.</p> <p>5 Q. But it hasn't happened yet?</p> <p>6 A. No.</p> <p>7 Q. Is there an administrative process where a</p> <p>8 rule has to be sent out for comment?</p> <p>9 A. Yes.</p> <p>10 Q. And that process hasn't begun?</p> <p>11 A. That hasn't begun.</p> <p>12 Q. Any -- have there been any other postings,</p> <p>13 notices, or press releases regarding the elimination of</p> <p>14 the fingerprint requirement?</p> <p>15 A. Yes.</p> <p>16 Q. What are those?</p> <p>17 A. I'm not aware of specific notices or press</p> <p>18 releases that -- that were issued.</p> <p>19 Q. But it's your understanding that there were</p> <p>20 some?</p> <p>21 A. Yes, uh-huh.</p> <p>22 Q. Any other voter education efforts regarding</p> <p>23 the elimination of the fingerprint requirements?</p> <p>24 A. Well, not on our part.</p> <p>25 Q. Okay. Is it your understanding that there's a</p>	<p style="text-align: right;">68</p> <p>1 to be present at mobile EIC stations?</p> <p>2 A. No.</p> <p>3 Q. Are they present?</p> <p>4 A. Rarely, if ever.</p> <p>5 Q. But sometimes they are?</p> <p>6 A. Well, if some local law enforcement happens to</p> <p>7 come in, there -- you know, there would be a law</p> <p>8 enforcement presence there. But there's no requirement</p> <p>9 that one be there. We don't ask for them to be there.</p> <p>10 Q. To your knowledge, does a voter registration</p> <p>11 application in Texas require fingerprints?</p> <p>12 A. No.</p> <p>13 Q. Does a US passport application require</p> <p>14 fingerprints?</p> <p>15 A. I don't know.</p> <p>16 Q. Does an applicant for a military ID have to</p> <p>17 provide fingerprints?</p> <p>18 A. I don't know that. When I got one I had to</p> <p>19 give fingerprints.</p> <p>20 Q. Sounds like a basis of knowledge for me. More</p> <p>21 than I know.</p> <p>22 Let's move to 15.183(a)(6). Does this</p> <p>23 brief description of the applicant that is required</p> <p>24 under the application, does that include the race of</p> <p>25 the applicant?</p>

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18 (Pages 69 to 72)

<p style="text-align: right;">69</p> <p>1 A. Yes.</p> <p>2 Q. How is that race determined?</p> <p>3 A. Whatever the applicant puts on their</p> <p>4 application.</p> <p>5 Q. It's on the form?</p> <p>6 A. Yes.</p> <p>7 Q. Is that recorded in a database of any kind?</p> <p>8 A. It is.</p> <p>9 Q. So would it be searchable by -- would that</p> <p>10 database be searchable by race?</p> <p>11 A. It is.</p> <p>12 Q. If you can look at 15.183(b), Social Security</p> <p>13 number. Under what circumstances do federal or state</p> <p>14 law require that an EIC not be issued in the absence of</p> <p>15 proof of Social Security number?</p> <p>16 A. I'm not sure I understood your question,</p> <p>17 but --</p> <p>18 Q. Am I correct that the regulation states that</p> <p>19 if the applicant fails or refuses to provide Social</p> <p>20 Security information, the election identification</p> <p>21 certificate will be issued without such documentation</p> <p>22 unless state or federal statute requires otherwise."</p> <p>23 Is that a correct reading of that</p> <p>24 provision?</p> <p>25 A. Yes, it is.</p>	<p style="text-align: right;">71</p> <p>1 customer service representation -- I mean -- I'm</p> <p>2 sorry -- a customer service representative, yes.</p> <p>3 Q. Are all the mobile EIC stations staffed by</p> <p>4 CSRs?</p> <p>5 A. If -- well, no. If it's a mobile station</p> <p>6 that's operated by a county, a CSR won't be there. If</p> <p>7 it's a mobile station operated by Health and Human</p> <p>8 Services Commission staff, a CSR won't be there.</p> <p>9 Q. And if it's a mobile -- sorry. Strike that.</p> <p>10 If it is a county office at which EIC</p> <p>11 applications are accepted, there won't be a -- an</p> <p>12 authorized employee of the Department of Public Safety</p> <p>13 who can issue an oath or affirmation, correct?</p> <p>14 A. There won't be a DPS employee there. There</p> <p>15 may be others within the county offices that could do</p> <p>16 that. I don't know the -- how many of those would have</p> <p>17 notary authorization.</p> <p>18 Q. And is there a cost associated with receiving</p> <p>19 notary public services?</p> <p>20 A. No. If you're talking about the customer</p> <p>21 service representative certifying a document, no.</p> <p>22 Q. If a CSR is not present at either a mobile</p> <p>23 station or a county office and an individual needs a</p> <p>24 notary to -- under this regulation are notaries</p> <p>25 authorized to charge for their services in Texas?</p>
<p style="text-align: right;">70</p> <p>1 Q. Under what circumstances would federal or</p> <p>2 state law require that an EIC not be issued in the</p> <p>3 absence of proof of Social Security number?</p> <p>4 A. I don't have the answer.</p> <p>5 Q. So, to your knowledge, there are no</p> <p>6 circumstances in which failure or refusal to provide</p> <p>7 Social Security number will result in failure of an EIC</p> <p>8 to be issued?</p> <p>9 MR. KEISTER: Object to form,</p> <p>10 mischaracterizes his testimony.</p> <p>11 Q. (BY MR. FREEMAN) Is that your understanding?</p> <p>12 A. Yes, sir.</p> <p>13 Q. If we can go to 15.183(c), which addresses</p> <p>14 notarization. Is a notary present at all DPS offices?</p> <p>15 A. No, sir.</p> <p>16 Q. Is -- but all requirements for an EIC require</p> <p>17 notarization?</p> <p>18 A. Yes. But the customer service representatives</p> <p>19 are authorized by statute to -- to certify or verify</p> <p>20 the applications and the information although they're</p> <p>21 not notaries.</p> <p>22 Q. Are individuals who work at all DPS mobile</p> <p>23 stations authorized to administer oaths or</p> <p>24 affirmations?</p> <p>25 A. If it's a customer service, a DPS employee</p>	<p style="text-align: right;">72</p> <p>1 A. They are authorized.</p> <p>2 Q. And how much does that cost?</p> <p>3 A. I don't know. And I think it varies with the</p> <p>4 notary.</p> <p>5 Q. Is it your understanding that a notary or an</p> <p>6 official who can administer oaths or affirmations under</p> <p>7 this provision is present at all mobile EIC stations?</p> <p>8 A. Let me hear the question again.</p> <p>9 Q. Sure. At all mobile EIC stations is there an</p> <p>10 official who can issue oaths or affirmations or a</p> <p>11 notary present?</p> <p>12 A. I'm not aware.</p> <p>13 Q. At all county offices at which EICs are</p> <p>14 available, is there a notary present or a similar</p> <p>15 official who can administer oaths?</p> <p>16 A. I don't know the answer to that one either.</p> <p>17 Q. Does one have to show proof of identity to a</p> <p>18 notary in order for the notary to notarize an</p> <p>19 application for an EIC?</p> <p>20 A. Well, I'm not a notary, but in my experience,</p> <p>21 yes, you do.</p> <p>22 Q. Do you know what documents satisfy proof of</p> <p>23 identity for notarization in Texas?</p> <p>24 A. I know a Texas driver's license or an ID card</p> <p>25 satisfies that requirement. Beyond that, I don't know</p>

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19 (Pages 73 to 76)

<p style="text-align: right;">73</p> <p>1 what they require.</p> <p>2 Q. If you're not known to a notary, is it</p> <p>3 required to show photographic identification to that</p> <p>4 notary?</p> <p>5 A. It's my understanding that it is.</p> <p>6 Q. So if an individual needs a notary to notarize</p> <p>7 an EIC application under this provision and they need</p> <p>8 the EIC application because they don't have photo ID</p> <p>9 and they're not known to the notary, they can't get a</p> <p>10 notary to notarize that EIC application, correct?</p> <p>11 MR. KEISTER: Object to the form and it</p> <p>12 calls for legal conclusion that he's not -- calls for a</p> <p>13 legal opinion that's not qualified to give.</p> <p>14 THE WITNESS: And I don't know the answer</p> <p>15 to the question.</p> <p>16 Q. (BY MR. FREEMAN) Okay. If we can go to</p> <p>17 Section 151.184(a), the last page. Does an EIC that is</p> <p>18 at least seven years old establish an individual's</p> <p>19 identity?</p> <p>20 A. No, sir.</p> <p>21 Q. Why not?</p> <p>22 A. It would have been expired by then unless they</p> <p>23 have renewed it --</p> <p>24 Q. But does it --</p> <p>25 A. -- or unless they're over 60 years old.</p>	<p style="text-align: right;">75</p> <p>1 require another photo. You renew by mail or by --</p> <p>2 online, there's no new photo. You have to come in</p> <p>3 every 12 years to get a new photo taken.</p> <p>4 Q. So why allow individuals to use photos that</p> <p>5 are up to 12 years old for a driver's license but not</p> <p>6 for an EIC?</p> <p>7 A. I don't have a good answer for that.</p> <p>8 Q. Does an EIC that is at least seven years old</p> <p>9 and was issued to an individual who was at least</p> <p>10 77 years old establish that individual's identity?</p> <p>11 A. For our purposes in issuing the EIC, yes.</p> <p>12 Q. Why the distinction between older and younger</p> <p>13 individuals with regard to the ability of the EIC to</p> <p>14 establish an individual's identity?</p> <p>15 A. I don't know.</p> <p>16 Q. Please look at Section 151.184(b)(3) under</p> <p>17 "Renewal." This provision says, "The department may</p> <p>18 provide certificate holders with alternative means of</p> <p>19 renewing or duplicating an election identification</p> <p>20 certification."</p> <p>21 Have any alternative means been</p> <p>22 established at this time?</p> <p>23 A. Not that I'm aware of.</p> <p>24 Q. Okay. Please look at Section 151.184(c),</p> <p>25 "Applications for Replacements and Corrections." What</p>
<p style="text-align: right;">74</p> <p>1 Q. But as a practical matter, how does the age</p> <p>2 distinction change whether or not the document shows</p> <p>3 that the individual is who they say they are?</p> <p>4 MR. KEISTER: Object to form, vague, and</p> <p>5 calls for speculation.</p> <p>6 THE WITNESS: I don't have an answer.</p> <p>7 Q. (BY MR. FREEMAN) What is the purpose of</p> <p>8 requiring renewal?</p> <p>9 A. Updating the photo and updating an address in</p> <p>10 the database.</p> <p>11 Q. But the address isn't on the card, correct?</p> <p>12 A. No, sir.</p> <p>13 Q. And doesn't -- is a new photo taken every time</p> <p>14 you renew an EIC?</p> <p>15 A. Yes, sir, I believe it is.</p> <p>16 Q. Is a new photo taken every time --</p> <p>17 A. We haven't experienced that, but that's a</p> <p>18 requirement.</p> <p>19 Q. Is a new photo taken every time you renew a</p> <p>20 driver's license?</p> <p>21 A. No.</p> <p>22 Q. Why the distinction?</p> <p>23 A. If you are renewing your driver's license</p> <p>24 within six years of -- of the original application or</p> <p>25 within the last time you had a photo, then we don't</p>	<p style="text-align: right;">76</p> <p>1 are the actual requirements for an application for a</p> <p>2 replacement or correction?</p> <p>3 A. Notification that the EIC has been lost,</p> <p>4 destroyed, or mutilated or if there's been a change of</p> <p>5 name or gender.</p> <p>6 Q. And how is that notification made?</p> <p>7 A. By the applicant.</p> <p>8 Q. On what form?</p> <p>9 A. It could be a marriage certificate; it could</p> <p>10 be an affidavit that they've lost it or that it's been</p> <p>11 mutilated.</p> <p>12 Q. Is an individual required to go to a DPS</p> <p>13 office in order to obtain a replacement or correction?</p> <p>14 A. Yes, sir.</p> <p>15 Q. Is there an existing form for replacements as</p> <p>16 opposed to issuance of new EICs?</p> <p>17 A. I believe there is. I'm not familiar with the</p> <p>18 form right off the top of my head.</p> <p>19 Q. Okay. Are these procedures set out in any</p> <p>20 regulation, the procedures for replacements or</p> <p>21 corrections?</p> <p>22 A. Other than what you see in the administrative</p> <p>23 rule, I'm -- no.</p> <p>24 Q. Okay. And would you agree with me that the</p> <p>25 circumstances for replacement or correction are set out</p>

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20 (Pages 77 to 80)

<p style="text-align: right;">77</p> <p>1 in the rule, but the procedures are not?</p> <p>2 A. The procedures are not set out in the rule.</p> <p>3 Q. Would you take a look at Section 151.185. Are</p> <p>4 there any grounds to cancel or require surrender of an</p> <p>5 EIC other than noncompliance with the requirements of</p> <p>6 Section 151.181?</p> <p>7 A. I'm not aware of any.</p> <p>8 Q. Has DPS enacted any other formal regulations</p> <p>9 that are relevant to the implementation of S.B. 14 in</p> <p>10 general and --</p> <p>11 A. I'm not aware of any.</p> <p>12 Q. Are there any other administrative rules</p> <p>13 besides the regulations that we've just been</p> <p>14 discussing?</p> <p>15 A. I'm not aware of any.</p> <p>16 MR. KEISTER: Dan, is this a good time</p> <p>17 for a break?</p> <p>18 MR. FREEMAN: It is a great time for a</p> <p>19 break.</p> <p>20 THE REPORTER: Off the record.</p> <p>21 (Recess from 10:19 a.m. to 10:39 a.m.)</p> <p>22 THE REPORTER: Back on the record.</p> <p>23 MR. FREEMAN: Back on the record. Thank</p> <p>24 you.</p> <p>25 THE WITNESS: Can I make a</p>	<p style="text-align: right;">79</p> <p>1 regarding those regulations and rules, correct?</p> <p>2 A. Yes, sir.</p> <p>3 Q. And with regard to several of those rules, you</p> <p>4 stated that you did not why certain rules were</p> <p>5 structured as they -- as they are, correct?</p> <p>6 A. That's correct.</p> <p>7 Q. So to the best of your knowledge, after your</p> <p>8 review and preparation for this deposition, there is no</p> <p>9 reason for the rules that you did not know a reason for</p> <p>10 them that they're structured as they are, correct?</p> <p>11 MR. KEISTER: Object to form, calls for</p> <p>12 speculation and the question is confusing.</p> <p>13 MR. FREEMAN: I'm happy to rephrase.</p> <p>14 Q. (BY MR. FREEMAN) With regard to those rules</p> <p>15 that you did not know a basis for those rules, to the</p> <p>16 best of your knowledge, is there no basis for those</p> <p>17 rules?</p> <p>18 MR. KEISTER: Object to form. Once</p> <p>19 again, it calls for speculation and that would be a</p> <p>20 misleading characterization of the testimony.</p> <p>21 Q. (BY MR. FREEMAN) You may answer.</p> <p>22 A. If you're asking if I believe there was no</p> <p>23 basis for those rules?</p> <p>24 Q. I'm asking, to your knowledge --</p> <p>25 A. Yes.</p>
<p style="text-align: right;">78</p> <p>1 clarification --</p> <p>2 Q. Absolutely.</p> <p>3 A. -- on previous testimony?</p> <p>4 I mentioned earlier, I believe, that we</p> <p>5 did a SAVE verification or a computerized check on</p> <p>6 citizenship and so forth. That's not accurate. It's</p> <p>7 not done either at the CSR station at the point of</p> <p>8 application or after -- or during quality assurance.</p> <p>9 Q. Thank you for that clarification. I</p> <p>10 appreciate that.</p> <p>11 A. Sure.</p> <p>12 Q. So before we move off the regulations real</p> <p>13 quickly, I just wanted to verify with you. So you're</p> <p>14 in charge of the driver's license division as a whole,</p> <p>15 correct?</p> <p>16 A. Yes, sir.</p> <p>17 Q. And you have expertise in the implementation</p> <p>18 of the EIC program, correct?</p> <p>19 A. That might be debatable, but, yes.</p> <p>20 Q. And you had an opportunity before testifying</p> <p>21 to determine the rationale for the regulations and</p> <p>22 rules that we just discussed, correct?</p> <p>23 A. I had that opportunity, yes, sir.</p> <p>24 Q. And you were -- you were on notice that you</p> <p>25 were going to be testifying on behalf of the state</p>	<p style="text-align: right;">80</p> <p>1 Q. -- is there no basis for the rules that you</p> <p>2 did not know a basis for?</p> <p>3 MR. KEISTER: Same objections.</p> <p>4 THE WITNESS: I don't believe that there</p> <p>5 was no basis for the rule. Based on my experience in</p> <p>6 ten months of having been involved in those, there is a</p> <p>7 basis for everything we do with respect to rules.</p> <p>8 Q. (BY MR. FREEMAN) But insofar as your</p> <p>9 providing testimony here today on behalf of the State,</p> <p>10 you cannot provide any basis for several of the rules</p> <p>11 we just discussed, correct?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. I would like to move on to the mobile</p> <p>14 stations and county offices that provide EIC services.</p> <p>15 Are there any formal rules or regulations that</p> <p>16 authorize the issuance of EICs for mobile stations?</p> <p>17 A. There is legislation that was passed in the</p> <p>18 83rd session that authorizes DPS to enter into a</p> <p>19 memoranda of agreement with county offices to issue</p> <p>20 driver licenses -- I'm sorry -- to provide renewal</p> <p>21 services and address changes and so forth for driver</p> <p>22 licenses and identification cards. And that was the</p> <p>23 basis for which we believed we were also authorized to</p> <p>24 do issuance of EICs by the county. And the process is</p> <p>25 governed by a memorandum of agreement that the county</p>

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21 (Pages 81 to 84)

<p style="text-align: right;">81</p> <p>1 signed with DPS to conduct EIC issuance.</p> <p>2 Q. We'll get to eventually.</p> <p>3 A. Okay.</p> <p>4 Q. But my question was, are there any formal</p> <p>5 rules or regulations that authorize the issuance of</p> <p>6 EICs from mobile stations or county offices?</p> <p>7 A. Authorizing EICs specifically? No.</p> <p>8 Q. Does S.B. 14 require or authorize issuance of</p> <p>9 EICs for mobile stations or county offices?</p> <p>10 A. No.</p> <p>11 Q. Is it subject to DPS' discretion to terminate</p> <p>12 the issuance of EICs from mobile stations?</p> <p>13 A. Yes.</p> <p>14 Q. Is it subject to DPS' discretion to terminate</p> <p>15 the issuance of EICs from county offices?</p> <p>16 A. Yes.</p> <p>17 (Exhibit No. 40 marked.)</p> <p>18 THE REPORTER: Exhibit 40.</p> <p>19 Q. (BY MR. FREEMAN) What is this document?</p> <p>20 A. This is a copy of the interlocal cooperation</p> <p>21 contract for mobile EIC operations between the</p> <p>22 Department of Public Safety and Duval County, Texas.</p> <p>23 Q. And did you sign this document?</p> <p>24 A. Yes, I did.</p> <p>25 Q. What is the interlocal cooperation contract?</p>	<p style="text-align: right;">83</p> <p>1 A. Yes, sir.</p> <p>2 Q. Am I correct that the Interlocal Cooperation</p> <p>3 Act does not state that state agencies can contract</p> <p>4 with a local government to delegate state services to</p> <p>5 be provided at the local level?</p> <p>6 MR. KEISTER: Objection, form, calls for</p> <p>7 a legal conclusion.</p> <p>8 Q. (BY MR. FREEMAN) I'm happy to restate if you</p> <p>9 didn't understand the question.</p> <p>10 A. Yeah, if you would.</p> <p>11 Q. Sure. Am I correct that the Interlocal</p> <p>12 Cooperation Act does not provide for state agencies to</p> <p>13 delegate the provision of services to local government</p> <p>14 entities to provide those services?</p> <p>15 A. I don't know.</p> <p>16 Q. Am I correct that nothing in S.B. 14</p> <p>17 authorizes the use of interlocal cooperation</p> <p>18 agreements?</p> <p>19 A. You're correct.</p> <p>20 Q. Am I correct that there's no regulation under</p> <p>21 the Interlocal Cooperation Act that authorizes this</p> <p>22 program?</p> <p>23 A. Yes.</p> <p>24 Q. Now, you previously discussed legislation from</p> <p>25 the 83rd Legislature. Was that S.B. 1729?</p>
<p style="text-align: right;">82</p> <p>1 A. That's the agreement that DPS entered with the</p> <p>2 local agency; in this case, Duval County, and what the</p> <p>3 processes were, who does what, who provides what for</p> <p>4 the issuance of an EIC.</p> <p>5 Q. Is there any DPS regulation that authorizes</p> <p>6 this relationship?</p> <p>7 A. No.</p> <p>8 Q. Am I correct that the document says it was</p> <p>9 authorized by Chapter 521 of the Texas Transportation</p> <p>10 Code?</p> <p>11 A. Yes, sir.</p> <p>12 Q. Am I correct that Chapter 521 addresses only</p> <p>13 driver's licenses and not EICs?</p> <p>14 A. Correct.</p> <p>15 Q. Is there any regulation under Chapter 521 that</p> <p>16 authorizes DPS to delegate duties to local government?</p> <p>17 A. No, sir, not directly.</p> <p>18 Q. It also says it's authorized by Chapter 791 of</p> <p>19 the Texas Government Code, correct?</p> <p>20 A. Yes.</p> <p>21 Q. Is that the Interlocal Cooperation Act?</p> <p>22 A. I believe it is, yes, sir.</p> <p>23 Q. Am I correct that the Interlocal Cooperation</p> <p>24 Act authorizes local governments to contract for</p> <p>25 services with other localities and state agencies?</p>	<p style="text-align: right;">84</p> <p>1 A. Yes, sir.</p> <p>2 Q. Am I correct that this document does not say</p> <p>3 that it is authorized by S.B. 1729?</p> <p>4 A. That's correct.</p> <p>5 Q. And am I correct that S.B. 1729 is a pilot</p> <p>6 program that's limited to only eight counties of</p> <p>7 specified sizes, correct?</p> <p>8 A. In it -- well, actually, it -- yeah. But it</p> <p>9 also authorizes us to provide those services in</p> <p>10 counties where we already have scheduled offices. So</p> <p>11 we're not limited to -- to those eight counties. If</p> <p>12 there are other counties -- if there are 40 counties</p> <p>13 out there that have a scheduled office, then our</p> <p>14 interpretation of the legislation is that we could</p> <p>15 establish the same presence in any of those counties.</p> <p>16 Q. So your understanding of S.B. 1729 is that it</p> <p>17 is not a limited pilot program that is limited to</p> <p>18 eight counties?</p> <p>19 A. It's limited to the extent that we would not</p> <p>20 establish pilots in counties that -- that don't already</p> <p>21 have -- the counties that we're limited to would be</p> <p>22 those where we don't already have some limited</p> <p>23 presence, whether there's a part-time office where we</p> <p>24 don't have -- I mean, where we have equipment already</p> <p>25 and we have connectivity and so forth, then we can</p>

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22 (Pages 85 to 88)

<p style="text-align: right;">85</p> <p>1 establish a county presence in any of those counties.</p> <p>2 Q. And so S.B. 1729 only allows you to establish</p> <p>3 a presence in eight additional counties, correct?</p> <p>4 A. Yes. Yes.</p> <p>5 Q. Am I correct that you've established either</p> <p>6 mobile operations or operations in county offices in</p> <p>7 more than eight counties in which you did not</p> <p>8 previously have DPS offices?</p> <p>9 A. Are you saying for driver license issuance or</p> <p>10 for EIC issuance?</p> <p>11 Q. EIC issuance.</p> <p>12 A. Okay. Now, say the -- ask your question</p> <p>13 again.</p> <p>14 Q. Sure. Am I correct that you've established</p> <p>15 EIC operations in more than eight counties in which you</p> <p>16 do not have functional DPS offices?</p> <p>17 A. Yes.</p> <p>18 Q. And what is the statute, rule, or regulation</p> <p>19 that authorizes that?</p> <p>20 A. I'm not aware of one.</p> <p>21 Q. Has any formal notice been given that EICs are</p> <p>22 available from mobile stations as a general matter?</p> <p>23 A. Yes.</p> <p>24 Q. What formal notice is that?</p> <p>25 A. Press releases from the Department of Public</p>	<p style="text-align: right;">87</p> <p>1 a mobile site we asked them for five days' notice for</p> <p>2 us.</p> <p>3 Q. So the Secretary of State's office is the one</p> <p>4 controlling where the mobile sites are located?</p> <p>5 A. Well, the -- to the extent that -- that</p> <p>6 they're deploying their state -- their mobile stations,</p> <p>7 the ones that they own --</p> <p>8 Q. Uh-huh.</p> <p>9 A. -- and that they man, they -- they govern all</p> <p>10 of those.</p> <p>11 Q. Okay.</p> <p>12 A. To the extent that -- that we're deploying DPS</p> <p>13 mobile stations in counties that don't have a driver</p> <p>14 license present, we assign those on a rotating basis.</p> <p>15 And our goal is to provide at least five days of</p> <p>16 service in each of those counties prior to any</p> <p>17 election.</p> <p>18 Q. And how far in advance of that -- those</p> <p>19 five days of service do you provide notice that those</p> <p>20 DPS-run mobile stations will be present in those</p> <p>21 communities?</p> <p>22 A. That would be a question for media and</p> <p>23 communications. I can't tell you. I don't know.</p> <p>24 Q. And so you don't know how that notice is</p> <p>25 promulgated?</p>
<p style="text-align: right;">86</p> <p>1 Safety Media and Communications Office, social media</p> <p>2 from the -- from the media and communications office,</p> <p>3 our website. The Secretary of State, I believe, has</p> <p>4 done notification.</p> <p>5 Q. Any direct mailers to registered voters?</p> <p>6 A. Not that I'm aware of.</p> <p>7 Q. Any targeted outreach to minority communities?</p> <p>8 A. From DPS perspective? No.</p> <p>9 Q. Okay. And, sorry. I just -- I should have</p> <p>10 asked one more question about S.B. 1729. You said you</p> <p>11 were not aware of any authorization beyond</p> <p>12 eight counties in which DPS was not functioning. So to</p> <p>13 your knowledge, there is no authorization beyond -- for</p> <p>14 DPS to have those county operations beyond eight</p> <p>15 counties authorized by S.B. 1729?</p> <p>16 A. Well, 1729 does not mention EIC specifically.</p> <p>17 To the extent that we're authorized to provide driver</p> <p>18 license services and ID card services, there is</p> <p>19 specific authorization.</p> <p>20 Q. How long in advance of a mobile station</p> <p>21 location operating is notice provided regarding the</p> <p>22 specific location?</p> <p>23 A. I'm not aware of how far in advance those</p> <p>24 notices are given. We have asked -- when the Secretary</p> <p>25 of State's office identifies a location where they want</p>	<p style="text-align: right;">88</p> <p>1 A. I know -- I know that it's done with press</p> <p>2 releases and social media contact and so forth. But in</p> <p>3 terms of how far in advance they -- they make those</p> <p>4 notifications, I don't know.</p> <p>5 Q. And do you know whether those notifications</p> <p>6 are made in Spanish language media?</p> <p>7 A. I don't know, but I'm sure they are.</p> <p>8 Q. But you don't have a basis to ensure that they</p> <p>9 are?</p> <p>10 A. I've not seen -- I've not seen Spanish</p> <p>11 language notification. I know that there have been</p> <p>12 interviews by Spanish language television stations and</p> <p>13 so forth.</p> <p>14 (Exhibit No. 41 marked.)</p> <p>15 THE REPORTER: Exhibit 41.</p> <p>16 Q. (BY MR. FREEMAN) What is this document?</p> <p>17 A. This is an e-mail from Tony Rodriguez at DPS</p> <p>18 to Wroe Jackson at the Secretary of State's office</p> <p>19 dated October 2nd, 2013.</p> <p>20 Q. And am I correct that this e-mail relays</p> <p>21 complaints from a county commissioner in Bexar County</p> <p>22 concerning the sufficiency of notice before mobile</p> <p>23 stations were present in Bexar County?</p> <p>24 A. That's correct.</p> <p>25 Q. Is Bexar County predominantly Hispanic?</p>

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23 (Pages 89 to 92)

<p style="text-align: right;">89</p> <p>1 A. I'm not sure what the -- the demographics are 2 in Bexar County. 3 Q. Are you aware of any other complaints from 4 local officials about insufficient notice before mobile 5 EIC units were sent out in their community? 6 A. I'm not aware of any. That doesn't mean that 7 there aren't any. 8 Q. And am I correct that -- that this e-mail 9 describes an individual in DPS telling 10 Commissioner Rodriguez that she would tell him on 11 October 16th what date an EIC station will be present 12 in Bexar County and that that EIC station will be 13 present sometime between October 25th and October 28th? 14 A. Are you asking me if that's what's in the 15 e-mail? 16 Q. Yes. 17 A. Yes. 18 Q. And am I correct that that only provides 19 nine days of notice before the EIC station will be 20 present? 21 MR. KEISTER: Object to form, calls for 22 speculation. 23 THE WITNESS: Yes. 24 Q. (BY MR. FREEMAN) Are you aware of how many 25 other counties have provided similar complaints?</p>	<p style="text-align: right;">91</p> <p>1 would get back with him and give him the dates. And if 2 there were others, I'm not aware of them. 3 Q. (BY MR. FREEMAN) So you're not aware -- 4 you're not aware of any specific efforts that were made 5 to provide more notice than the amount of notice that 6 this county commissioner deemed insufficient? 7 A. I'm not. 8 Q. Is there any rule that allows, but doesn't 9 require counties to perform certain processing services 10 for EIC applicants? 11 A. Would you restate the question? 12 Q. Sure. Is there any rule that allows -- any 13 administrative rule or regulation that allows counties 14 to perform processing requirements for EIC 15 applications? 16 A. Not that I'm aware of. 17 Q. Is it up to counties to determine if they want 18 to participate in providing processing services for EIC 19 applicants? 20 A. Yes, it is. 21 Q. Are you aware of any legal obligation for 22 counties to participate? 23 A. I'm not aware of any legal obligations. 24 Q. Are counties paid for their services? 25 A. No, sir.</p>
<p style="text-align: right;">90</p> <p>1 A. I'm not aware of any. 2 Q. Are such complaints relayed to you or only to 3 Mr. Rodriguez? 4 A. Well, they wouldn't necessarily have been 5 directed to me specifically. Mr. Rodriguez would 6 probably have been the first point of contact for them 7 since he was our point of contact for EIC. 8 Q. Are you aware of how many community leaders 9 have made similar complaints regarding a lack of notice 10 before an EIC mobile station was sent into their 11 community? 12 A. No, sir. 13 THE WITNESS: I'm sorry. 14 MR. KEISTER: Object to vague and calls 15 for speculation and fails to identify community 16 leaders. 17 Give me a chance to butt in if I need 18 to. 19 THE WITNESS: Okay. 20 Q. (BY MR. FREEMAN) How has the State responded 21 to such complaints about lack of notice? 22 MR. KEISTER: Object to vague. 23 THE WITNESS: I'm not sure what those 24 responses would have been. And, you know, to this one 25 the response, as you see in the e-mail, was that they</p>	<p style="text-align: right;">92</p> <p>1 Q. Are you aware of any counties that have 2 declined to enter into an agreement to provide EIC 3 application services? 4 A. I am. 5 Q. Isn't it true that of the 79 or so counties 6 without driver's licenses -- driver license offices, 7 about 25 to 30 have declined to enter into such an 8 agreement? 9 A. I don't believe that number is accurate now. 10 Q. Sorry. My question was sort of compound, so 11 let me restate it. 12 A. Yeah. 13 Q. Approximately how many counties have declined 14 to enter into an agreement to provide EIC services? 15 A. I believe that number is 18 now. 16 Q. And those are all counties that don't have DPS 17 offices? 18 A. Correct. 19 Q. Why have those counties declined to -- why 20 have -- sorry. Let me restate. 21 What is the reason that those counties 22 have given for not wanting to enter into such an 23 agreement or provide such services? 24 A. Some of those counties have not given us a 25 reason, but the few that have believed it was not</p>

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24 (Pages 93 to 96)

<p style="text-align: right;">93</p> <p>1 necessary. They didn't have the staff to devote to EIC 2 issuance. 3 Q. And DPS has not offered any resources to 4 assist those counties? 5 A. I'm sorry? 6 Q. DPS has not offered any resources to assist 7 those counties in terms of personnel or financial 8 resources? 9 A. No financial resources and no -- no personnel 10 except that where a county has declined to participate, 11 DPS sends customer service representatives into those 12 counties to ensure that there's an opportunity for 13 county residents to obtain EICs in their county. 14 Q. And that's the mobile station? 15 A. Yes, sir. 16 Q. But those are only available, you said, 17 approximately five days? 18 A. Yes, sir. That's our goal. 19 Q. Five days before -- a total of five days prior 20 to an election? 21 A. Correct. 22 Q. Is there any formal notice, regulation, rule 23 that states that EICs are to be available from fixed 24 county offices as a general matter? 25 MR. KEISTER: Object to form, compound.</p>	<p style="text-align: right;">95</p> <p>1 language TV stations? 2 A. I know that Spanish language TV stations have 3 been granted interviews and have done stories on the 4 EIC process. 5 Q. Any African-American interest radio stations? 6 A. I'm not aware of any. 7 Q. Are there any regulations that authorize the 8 issuance of EICs from DPS offices on Saturdays? 9 A. No regulation, no, sir. 10 Q. And Saturday issuance is not required or 11 authorized by the text of S.B. 14? 12 A. Correct. 13 Q. And so this program could be terminated at any 14 time? 15 A. Correct. 16 Q. Have some DPS officials complained about the 17 issuance of EICs on Saturdays as a waste of resources? 18 A. If they have it hasn't come to me. 19 Q. Who would that go to? 20 A. Well, they may -- a CSR might complain to the 21 local supervisor that they had to work on Saturday. 22 But, you know, I wouldn't hear about that. 23 Q. Is there any rule that your office has 24 established concerning the amount of weekend or evening 25 hours that you've required for EIC issuance?</p>
<p style="text-align: right;">94</p> <p>1 Q. (BY MR. FREEMAN) Is there any formal notice 2 that EICs are to be available from fixed county offices 3 as a general matter? 4 A. What's a formal notice? 5 Q. Regulation, a rule, or any other type of 6 formal approved notice by your office? 7 A. I'm not -- I'm not aware of a formal rule or a 8 regulation. 9 Q. Have you provided any other notice other than 10 your website of the list of fixed county offices where 11 EICs are available? 12 A. Yes. 13 Q. What notice? 14 A. Press releases, we have spreadsheets that 15 indicate those offices where we're going to provide EIC 16 services. 17 Q. Are you aware of any notice particular -- or 18 specific to a particular county office? 19 A. No. 20 Q. Are you aware of any outreach that's been 21 known to TV stations? 22 A. I'm -- I know it's been done because I've seen 23 some of the releases. But as -- when you're talking 24 specifics, I don't have it. 25 Q. Are you aware of any outreach to Spanish</p>	<p style="text-align: right;">96</p> <p>1 A. Rules? 2 Q. Yes. 3 A. No. 4 Q. At any point did DPS consider a rule that 5 would have allowed individuals to obtain an EIC without 6 bringing a certified birth certificate by connecting 7 DPS stations directly to the Department of State Health 8 Services in order to verify birth records? 9 A. There was discussion about that, about the 10 ability and the costs for DPS to have direct access to 11 verify birth certificates. 12 Q. And when did that discussion occur? 13 A. It would be purely a guess, but I think it was 14 in September of 2013. 15 Q. And who was a part of that discussion? 16 A. There were HHSC representatives and DPS 17 representatives at the table. And I don't recall the 18 names of -- of the HHSC representatives. 19 Q. And why was the decision made not to create 20 that direct connection? 21 A. I'm not sure what the -- the issues were with 22 HHSC, but the primary problem was the connectivity and 23 DPS having direct access and the cost of programming 24 that would -- that would allow us to have direct 25 access.</p>

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25 (Pages 97 to 100)

<p style="text-align: right;">97</p> <p>1 Q. So it would have been possible to connect</p> <p>2 fixed location DPS offices to birth certificate</p> <p>3 records, but it would have required someone to program</p> <p>4 it out; is that correct?</p> <p>5 A. Yes. It would have been technically possible,</p> <p>6 yes.</p> <p>7 Q. And am I correct that this would have allowed</p> <p>8 individuals who don't presently have a birth</p> <p>9 certificate to obtain an EIC without traveling to</p> <p>10 another location to obtain their birth certificate?</p> <p>11 MR. KEISTER: Object to form, calls for</p> <p>12 speculation.</p> <p>13 THE WITNESS: I would say yes.</p> <p>14 Q. (BY MR. FREEMAN) And there was no legal</p> <p>15 impediment to this direct connection, correct?</p> <p>16 A. Right.</p> <p>17 MR. KEISTER: Object to form, calls for a</p> <p>18 legal conclusion or opinion.</p> <p>19 Q. (BY MR. FREEMAN) This rule -- this provision</p> <p>20 was ultimately rejected, correct?</p> <p>21 A. Yes.</p> <p>22 Q. At any point did DPS consider a rule that</p> <p>23 would have permitted individuals seeking an EIC to sign</p> <p>24 an affidavit attesting to their citizenship rather than</p> <p>25 providing a birth certificate?</p>	<p style="text-align: right;">99</p> <p>1 MR. KEISTER: Objection, nonresponsive.</p> <p>2 Please don't assume.</p> <p>3 Q. (BY MR. FREEMAN) Am I correct that the</p> <p>4 regulations -- sorry.</p> <p>5 To your knowledge, your personal</p> <p>6 knowledge, is an individual able to provide this form</p> <p>7 rather than providing a birth certificate when they</p> <p>8 apply for an EIC?</p> <p>9 MR. KEISTER: Objection, form. And, Dan,</p> <p>10 he's not here for his personal audit. He's here for --</p> <p>11 to testify on behalf of DPS. So if you're asking him</p> <p>12 with respect to DPS -- you said personal.</p> <p>13 Q. (BY MR. FREEMAN) With respect to DPS?</p> <p>14 A. Yes.</p> <p>15 Q. It's your testimony that -- are you certain?</p> <p>16 A. No.</p> <p>17 Q. Okay. Would this -- would this form have a</p> <p>18 form number or something else if it had been finalized</p> <p>19 on it?</p> <p>20 A. It appears that it has not been finalized.</p> <p>21 Q. Have you ever seen a finalized version of this</p> <p>22 form?</p> <p>23 A. No. I haven't even seen this form.</p> <p>24 Q. Okay. And the regulations don't allow an</p> <p>25 individual to submit this form in lieu of birth</p>
<p style="text-align: right;">98</p> <p>1 A. I don't recall.</p> <p>2 (Exhibit No. 42 marked.)</p> <p>3 THE REPORTER: Exhibit 42.</p> <p>4 MR. KEISTER: Thank you.</p> <p>5 Q. (BY MR. FREEMAN) Have you seen this document</p> <p>6 before?</p> <p>7 A. I don't think I have.</p> <p>8 Q. Am I correct that this is an affidavit that</p> <p>9 would have allowed an individual to qualify for an</p> <p>10 election certificate by certifying that they were the</p> <p>11 person that they said they were and that they were born</p> <p>12 in a particular place on a particular date?</p> <p>13 MR. KEISTER: Objection, form, calls for</p> <p>14 speculation.</p> <p>15 Q. (BY MR. FREEMAN) Looking at this document</p> <p>16 that you have in front of you, am I correct that this</p> <p>17 document states that it allows an individual to</p> <p>18 establish their identity by providing certain</p> <p>19 information related to date and place of birth?</p> <p>20 A. Yes.</p> <p>21 Q. Is a signed copy of this document presently an</p> <p>22 accepted alternative to providing a birth certificate</p> <p>23 when applying for an EIC?</p> <p>24 A. I assume that it is. I have not seen the</p> <p>25 document.</p>	<p style="text-align: right;">100</p> <p>1 certificate, correct?</p> <p>2 A. Not that I'm aware of.</p> <p>3 Q. Okay. Do you know when a decision was made</p> <p>4 regarding whether or not this form would be accepted in</p> <p>5 lieu of a birth certificate?</p> <p>6 A. No, sir.</p> <p>7 Q. And so you don't know who made that decision</p> <p>8 as --</p> <p>9 A. That would be accurate.</p> <p>10 Q. And you don't know why that decision was made?</p> <p>11 A. No, sir.</p> <p>12 Q. Would you agree that this form would have</p> <p>13 allowed an individual who doesn't presently possess a</p> <p>14 birth certificate to obtain an EIC without the cost or</p> <p>15 burden of obtaining a birth certificate?</p> <p>16 MR. KEISTER: Objection, form, calls for</p> <p>17 speculation.</p> <p>18 THE WITNESS: No.</p> <p>19 MR. FREEMAN: Sorry. Could you read that</p> <p>20 back?</p> <p>21 THE REPORTER: Sure.</p> <p>22 "Would you agree that this form would</p> <p>23 have allowed an individual who doesn't presently</p> <p>24 possess a birth certificate to obtain an EIC without</p> <p>25 the cost or burden of obtaining a birth certificate?"</p>

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26 (Pages 101 to 104)

<p style="text-align: right;">101</p> <p>1 Mr. Keister said, "Objection, form, calls 2 for speculation." 3 Answer, "No." 4 Q. (BY MR. FREEMAN) And why not? 5 MR. KEISTER: Same objection. 6 THE WITNESS: I think it would defeat the 7 purpose of identification and proof of citizenship. 8 Q. (BY MR. FREEMAN) But if a person doesn't have 9 a birth certificate and if this form were allowed, that 10 person wouldn't have to go through the burden of 11 obtaining a birth certificate in order to obtain an 12 EIC, correct? 13 MR. KEISTER: Objection, calls for 14 speculation and no foundation as this form is not 15 adopted. 16 THE WITNESS: Yes. 17 Q. (BY MR. FREEMAN) Okay. Under the present 18 system an individual who lacks an S.B. 14 ID and lacks 19 a birth certificate must first obtain the birth 20 certificate by traveling to a birth certificate office 21 and then must obtain an EIC by traveling to a location 22 where they can apply for an EIC, correct? 23 MR. KEISTER: Objection, form, compound. 24 And to the extent that calls for information with 25 respect to DPS issues, you can testify to that. But</p>	<p style="text-align: right;">103</p> <p>1 Q. Then they have to obtain the birth certificate 2 and then they have to come back to the EIC location, 3 correct? 4 A. Yes. 5 Q. So that's three trips, correct? 6 A. Well, I don't -- it's two trip to the DPS 7 office. 8 Q. And potentially one trip elsewhere to obtain 9 the birth certificate, correct? 10 A. Potentially. 11 Q. Okay. 12 MR. KEISTER: Object, calls for 13 speculation. 14 Q. (BY MR. FREEMAN) And so would permitting an 15 individual to use this affidavit to establish their 16 birth save that individual at least the additional trip 17 back to DPS -- 18 MR. KEISTER: Are you done? 19 Q. (BY MR. FREEMAN) -- to bring their birth 20 certificate? 21 MR. KEISTER: Objection, form, calls for 22 speculation. In addition, Dan, he's here to testify 23 with respect to what is currently DPS policies, and 24 this obviously is not. So this is outside the items 25 that he's here designated to testify about. So I'm</p>
<p style="text-align: right;">102</p> <p>1 testifying with respect to birth certificate issues is 2 outside the scope of the items he's here to testify 3 about. 4 MR. FREEMAN: Let me see if I can 5 rephrase that and avoid that problem then. 6 Q. (BY MR. FREEMAN) An individual who lacks the 7 forms of secondary ID that we discussed earlier must 8 obtain that ID in order to obtain an EIC, correct? 9 MR. KEISTER: Objection, form, calls for 10 speculation. 11 THE WITNESS: Yes. 12 Q. (BY MR. FREEMAN) And then that individual has 13 to travel to a place where EICs are available, correct? 14 A. I don't know what he has to do to get it. 15 Q. Well, no, no. In -- once they have the birth 16 certificate they have to go to an EIC location to 17 obtain an EIC, correct? 18 A. Yes. 19 MR. KEISTER: Objection, form, compound, 20 mischaracterizes previous testimony. 21 Q. (BY MR. FREEMAN) If an individual travels to 22 an office to attempt to obtain an EIC, but they don't 23 bring a birth certificate with them because they don't 24 have it, they won't be able to get the EIC, correct? 25 A. Correct.</p>	<p style="text-align: right;">104</p> <p>1 going to instruct him not to answer. This is all 2 speculation. 3 MR. FREEMAN: Let me see -- 4 MR. KEISTER: Because it's not -- it's 5 not -- 6 MR. FREEMAN: Let's try one more time 7 then. 8 MR. KEISTER: Okay. 9 Q. (BY MR. FREEMAN) Under the current rules, 10 which is within the scope of this deposition, an 11 individual arrives at an EIC station lacking a birth 12 certificate or any other form of secondary 13 identification, they -- a location that issues an EIC, 14 they can't get the EIC, correct? 15 A. Yes. 16 Q. The current rules do not allow an individual 17 to sign an affidavit establishing the same facts as a 18 birth certificate in lieu of providing a birth 19 certificate, correct? 20 A. Yes. 21 Q. And so the current rules would require the 22 individual to return on a second trip to DPS with a 23 birth certificate rather than signing an affidavit, 24 correct? 25 MR. KEISTER: Objection, form, calls for</p>

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27 (Pages 105 to 108)

<p style="text-align: right;">105</p> <p>1 speculation, and I believe misstates the rules.</p> <p>2 THE WITNESS: Yes.</p> <p>3 Q. (BY MR. FREEMAN) Thank you.</p> <p>4 During the legislature's consideration of</p> <p>5 S.B. 14, did any legislators request DPS to determine</p> <p>6 the number of registered voters in Texas who lack a</p> <p>7 DPS-issued ID?</p> <p>8 A. I don't know what happened during the -- the</p> <p>9 S.B. 14 discussion and so forth.</p> <p>10 MR. FREEMAN: I believe he's been</p> <p>11 designated specifically for that topic. Am I correct,</p> <p>12 Mr. Keister?</p> <p>13 MR. KEISTER: I believe you had that in</p> <p>14 here, but he's giving you the testimony that he can</p> <p>15 give you, so --</p> <p>16 MR. FREEMAN: Mr. Keister, am I correct</p> <p>17 that Texas has designated Mr. Peters as their witness</p> <p>18 regarding information that DPS provided during the</p> <p>19 legislative process?</p> <p>20 MR. KEISTER: You have the designation</p> <p>21 and he's here to testify, so you can ask him the</p> <p>22 questions.</p> <p>23 MR. FREEMAN: Mr. Keister --</p> <p>24 MR. KEISTER: If you're not happy with</p> <p>25 his answer we can discuss it later, but --</p>	<p style="text-align: right;">107</p> <p>1 or requested from DPS during legislative consideration</p> <p>2 of S.B. 14, correct?</p> <p>3 A. Yes.</p> <p>4 Q. During the legislature's consideration of</p> <p>5 S.B. 14 did any legislators request any information</p> <p>6 from DPS?</p> <p>7 A. Not having been here during that deliberation,</p> <p>8 during that discussion, I'm not personally aware of any</p> <p>9 requests from -- from the legislature of DPS.</p> <p>10 Q. Is the Department of Public Safety aware of</p> <p>11 any request received by the department from the</p> <p>12 legislature during legislative consideration of</p> <p>13 S.B. 14?</p> <p>14 A. Yes.</p> <p>15 Q. But you are not aware?</p> <p>16 A. Correct.</p> <p>17 MR. KEISTER: And by "you," you mean him</p> <p>18 personally, not DPS?</p> <p>19 Q. (BY MR. FREEMAN) I mean you as a witness that</p> <p>20 has been designated by the State of Texas to testify</p> <p>21 regarding this topic.</p> <p>22 MR. KEISTER: Okay.</p> <p>23 Q. (BY MR. FREEMAN) Are you aware; "you," the</p> <p>24 Department of Public Safety, aware of any request</p> <p>25 received by the department from the Texas Legislature</p>
<p style="text-align: right;">106</p> <p>1 MR. FREEMAN: His answer is that he lacks</p> <p>2 all knowledge concerning a topic for which he's been</p> <p>3 designated, correct?</p> <p>4 THE WITNESS: Well, I thought the</p> <p>5 question --</p> <p>6 MR. KEISTER: Hold on. Hold on.</p> <p>7 No, that was not -- that was not his</p> <p>8 answer. And if you want to ask him questions, he will</p> <p>9 answer the questions. If you don't like the answers,</p> <p>10 you can bring that up later, but let's go ahead with</p> <p>11 the question.</p> <p>12 Q. (BY MR. FREEMAN) Do you have any knowledge</p> <p>13 regarding any questions that the legislature may have</p> <p>14 asked DPS during the legislative consideration of</p> <p>15 S.B. 14?</p> <p>16 MR. KEISTER: Objection, vague.</p> <p>17 MR. FREEMAN: Can we go off the record</p> <p>18 for a second?</p> <p>19 MR. KEISTER: Yeah, let's go off the</p> <p>20 record for a second.</p> <p>21 THE REPORTER: Off the record.</p> <p>22 (Discussion off the record.)</p> <p>23 THE REPORTER: Back on the record.</p> <p>24 Q. (BY MR. FREEMAN) We discussed earlier that</p> <p>25 you are prepared to discuss all information provided by</p>	<p style="text-align: right;">108</p> <p>1 during consideration of any prior photographic voter</p> <p>2 identification bill by the legislature?</p> <p>3 A. Yes.</p> <p>4 Q. What requests were received?</p> <p>5 A. I don't recall the specific requests. We were</p> <p>6 asked for a fiscal note and what would it cost to</p> <p>7 implement the provisions of the bill. We were asked</p> <p>8 what impact the provisions of that bill might have on</p> <p>9 DPS and their driver license issuance process.</p> <p>10 Q. Were you ever asked to determine the number of</p> <p>11 registered voters who lack DPS-issued ID?</p> <p>12 A. No, sir.</p> <p>13 Q. Were you ever asked to contribute any data or</p> <p>14 other assistance in -- to a response to such a request?</p> <p>15 A. Yes.</p> <p>16 Q. When was that?</p> <p>17 A. I don't recall the date.</p> <p>18 Q. And was that -- with regard to S.B. 14</p> <p>19 specifically, did DPS provide any assistance in</p> <p>20 responding to a request that DPS or any other agency</p> <p>21 determine the number of registered voters in Texas who</p> <p>22 lack DPS-issued ID?</p> <p>23 A. I'm not aware of the specific dates of the</p> <p>24 request for data.</p> <p>25 Q. Uh-huh.</p>

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28 (Pages 109 to 112)

<p style="text-align: right;">109</p> <p>1 A. It may have been during the consideration of 2 S.B. 14 and it could have been after that. I just -- I 3 don't know. 4 Q. Are you aware of any similar request with 5 regard to any earlier photographic voter identification 6 bill? 7 A. You mean earlier than S.B. 14? 8 Q. Yes. 9 A. No, sir. 10 Q. At any time did DPS contribute to any 11 information -- sorry. 12 At any time did DPS contribute any 13 information towards a database match that would have 14 estimated the number of registered voters who lack an 15 S.B. 14-required ID? 16 A. We provided driver's license database 17 information to the office of the Secretary of State. 18 Q. When was that? 19 A. I think there were two occasions, but I don't 20 know either of the dates. 21 Q. Were those before or after S.B. 14 was passed? 22 A. One was after, I'm sure. The other I'm not 23 sure, but I believe it was during. 24 (Exhibit No. 43 marked.) 25 THE REPORTER: Exhibit 43.</p>	<p style="text-align: right;">111</p> <p>1 MR. KEISTER: Objection, form, calls for 2 speculation and assumes facts not in evidence. 3 Q. (BY MR. FREEMAN) You previously testified 4 that DPS provided information for a matching program 5 between SOS registered voters and DPS drivers, correct? 6 A. Yes. 7 Q. And you said that that may have occurred 8 during consideration of S.B. 14, correct? 9 A. Yes. 10 Q. And the date of this e-mail, you said, was 11 February 1st, correct? 12 A. Yes. 13 Q. And that's before S.B. 14 was passed, correct? 14 A. Yes. 15 Q. And this e-mail indicates that some match was 16 performed between total voters in the State of Texas 17 and a DPS record, correct? 18 A. Yes. 19 Q. My question is, what type of DPS record did 20 DPS provide in order for SOS to perform that match? 21 MR. KEISTER: Objection, form, calls for 22 speculation, mischaracterizes the evidence presented to 23 this witness. 24 And to the extent you can testify with 25 DPS knowledge what DPS provided to the Secretary of</p>
<p style="text-align: right;">110</p> <p>1 MR. KEISTER: Thank you. 2 Q. (BY MR. FREEMAN) Have you ever seen this 3 document before? 4 A. No, sir. I don't -- can't say that I have. 5 Q. What does this document appear to be? 6 A. It appears to be an e-mail from Ann McGeehan 7 to Ann McGeehan and Karen Richards, with Lee Guyette 8 and John Mendoza copied on February 1st of 2011. 9 Q. And are any of those individuals employed by 10 DPS? 11 A. I'm sorry? 12 Q. Are any of those individuals employed by DPS? 13 A. They don't look familiar to me. 14 Q. If you go to the second page, do you see the 15 listing of numbers of voters that match a DPS record or 16 do not match a DPS record? 17 A. I see a list that has a total number of voters 18 in the state and then Query 1, "Matching Criteria," the 19 number of voters with no Texas driver's license or ID 20 number and the number of voters that matched a DPS 21 record and the number of voters that did not match a 22 DPS record. 23 Q. Are you aware of what types of records DPS 24 provided in order to allow the Secretary of State's 25 office to conduct this match?</p>	<p style="text-align: right;">112</p> <p>1 State, you're allowed to do that. To the extent you're 2 being requested to testify as to what the Secretary of 3 State did with that knowledge, if DPS does not know, 4 then that's outside what you're designated to testify 5 about, and I'll instruct you not to answer that. 6 Q. (BY MR. FREEMAN) You may answer. 7 A. I don't know what all data -- I know the data 8 that was given to them was from the driver's license 9 database. And as to the specific fields that were 10 provided to the Secretary of State, I don't know. 11 Q. Are you aware of whether DPS provided records 12 from the active DPS database or whether it provided a 13 copy of the jury wheel? 14 A. I believe on one of those occasions the jury 15 wheel was provided to them. And prior to that, I'm not 16 sure what they got. 17 Q. So you don't know if this was the driver's 18 license database or was the jury wheel with regard to 19 this particular match? 20 MR. KEISTER: Objection, form, calls for 21 speculation, mischaracterizes the previous testimony. 22 There's no foundation, no evidence that the information 23 this witness has talked about is the information that 24 was used by the Secretary of State. 25 THE WITNESS: Okay. The question --</p>

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29 (Pages 113 to 116)

<p style="text-align: right;">113</p> <p>1 Q. (BY MR. FREEMAN) You may answer.</p> <p>2 A. The question is?</p> <p>3 Q. With regard to the information that DPS</p> <p>4 provided that the Secretary of State matched in January</p> <p>5 of 2011, are you aware whether that was from the active</p> <p>6 DPS database or whether that was from the jury wheel?</p> <p>7 MR. KEISTER: Same objections.</p> <p>8 THE WITNESS: I'm not aware.</p> <p>9 Q. (BY MR. FREEMAN) Okay. Did DPS help devise</p> <p>10 the comparison algorithm or the -- the match that was</p> <p>11 used between registered voter databases and DPS data?</p> <p>12 A. My understanding is that DPS provided the data</p> <p>13 and had no input otherwise.</p> <p>14 Q. Okay. Are you aware of whether DPS provided</p> <p>15 the ethnicity field from the driver's license database?</p> <p>16 A. I'm not.</p> <p>17 Q. Okay. Are you aware of whether DPS provided</p> <p>18 the expiration date field from the DPS database?</p> <p>19 A. I'm not.</p> <p>20 Q. Did anyone from DPS follow up with the</p> <p>21 Secretary of State's office to determine if the match</p> <p>22 had been completed?</p> <p>23 A. I'm not aware of whether they did or not.</p> <p>24 Q. So, to your knowledge, as -- sorry. To the</p> <p>25 knowledge of the Department of Public Safety and you as</p>	<p style="text-align: right;">115</p> <p>1 A. No.</p> <p>2 Q. -- DPS didn't provide a copy?</p> <p>3 A. No.</p> <p>4 Q. Did DPS make any legislators aware that the</p> <p>5 match had been -- that it had provided data for this</p> <p>6 match?</p> <p>7 A. I'm not aware of any specific notification to</p> <p>8 any legislator that we have provided that data.</p> <p>9 Q. Was a decision made not to inform Texas</p> <p>10 legislators that data had been provided for this match?</p> <p>11 MR. KEISTER: Objection, form.</p> <p>12 Mischaracterizes previous testimony.</p> <p>13 A. I'm not aware.</p> <p>14 Q. (BY MR. FREEMAN) So you don't know -- pardon</p> <p>15 -- the Department of Public Safety does not know when a</p> <p>16 decision was made not to inform legislators that this</p> <p>17 data had been provided?</p> <p>18 MR. KEISTER: Objection, form.</p> <p>19 Argumentative and mischaracterizes the previous</p> <p>20 testimony.</p> <p>21 A. I'm not aware of any such decision that was</p> <p>22 made.</p> <p>23 Q. (BY MR. FREEMAN) Are you aware of any other</p> <p>24 instance in which legislators have requested</p> <p>25 information that DPS -- that DPS had in its possession</p>
<p style="text-align: right;">114</p> <p>1 their designee here, no follow-up was conducted,</p> <p>2 correct?</p> <p>3 MR. KEISTER: Objection, form, vague,</p> <p>4 confusion, calls for speculation.</p> <p>5 MR. FREEMAN: I'm happy to rephrase it.</p> <p>6 MR. KEISTER: Okay.</p> <p>7 Q. (BY MR. FREEMAN) To the knowledge of the</p> <p>8 Department of Public Safety, there was no follow-up</p> <p>9 conducted to determine if this match for which the</p> <p>10 department had provided data had been completed,</p> <p>11 correct?</p> <p>12 MR. KEISTER: Objection, form,</p> <p>13 mischaracterizes the previous testimony, no foundation,</p> <p>14 and calls for speculation.</p> <p>15 THE WITNESS: I'm not aware.</p> <p>16 Q. (BY MR. FREEMAN) Did DPS receive the output</p> <p>17 of the match that was conducted in January 2011?</p> <p>18 A. I'm not aware.</p> <p>19 Q. Was the match that was conducted in January</p> <p>20 of 2011 provided to any Texas legislators during</p> <p>21 consideration of S.B. 14?</p> <p>22 A. I don't know what the Secretary of State's</p> <p>23 office may have provided them, if that's what you're</p> <p>24 asking. I don't know.</p> <p>25 Q. To your knowledge --</p>	<p style="text-align: right;">116</p> <p>1 in which DPS did not provide that information?</p> <p>2 MR. KEISTER: Objection, form.</p> <p>3 Mischaracterizes previous testimony, no foundation as</p> <p>4 respect to you did not establish there was any request,</p> <p>5 argumentative and calls for speculation.</p> <p>6 A. I'm not aware.</p> <p>7 Q. (BY MR. FREEMAN) Are you aware of any</p> <p>8 instance in which a Texas agency has declined to</p> <p>9 provide readily available information to legislators</p> <p>10 who have requested it?</p> <p>11 MR. KEISTER: Objection, form. That's</p> <p>12 outside the scope of the issues you're here to testify</p> <p>13 about. You can testify with respect to the knowledge</p> <p>14 of DPS but not about other agencies.</p> <p>15 A. With respect to DPS I'm not aware of any</p> <p>16 instance where we didn't provide information requested</p> <p>17 by the legislature.</p> <p>18 Q. (BY MR. FREEMAN) Is it ordinary procedure for</p> <p>19 DPS to decline to provide readily available information</p> <p>20 to the legislators who have requested it?</p> <p>21 MR. KEISTER: Object to form,</p> <p>22 argumentative, mischaracterizes previous testimony and</p> <p>23 no foundation.</p> <p>24 A. And your answer is no.</p> <p>25 Q. (BY MR. FREEMAN) Okay. Besides the</p>

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<p style="text-align: right;">141</p> <p>1 been completed successfully?</p> <p>2 MR. KEISTER: Objection, form.</p> <p>3 Mischaracterizes previous testimony. Vague. No</p> <p>4 foundation. And asked and answered.</p> <p>5 But you can answer it.</p> <p>6 A. I'm not aware.</p> <p>7 Q. (BY MR. FREEMAN) Did DPS receive the output</p> <p>8 of any analysis performed using the data that it</p> <p>9 provided after August 31st, 2012?</p> <p>10 A. I'm not aware that DPS received a formal</p> <p>11 notification of the output. We were made aware of what</p> <p>12 the output was.</p> <p>13 Q. What was the output?</p> <p>14 A. As I testified earlier, I believe the output</p> <p>15 was that there were over 700,000 potential voters out</p> <p>16 there that did not have an ID or a driver's license.</p> <p>17 Q. That was the output of the analysis performed</p> <p>18 after August 31, 2012?</p> <p>19 A. Oh, now, I'm not sure about the number -- I</p> <p>20 mean, the date and that number on a specific date.</p> <p>21 Q. Are you aware of whether there were different</p> <p>22 outputs of different analyses that were performed</p> <p>23 during -- or using DPS data?</p> <p>24 A. No, sir.</p> <p>25 Q. Who would be?</p>	<p style="text-align: right;">143</p> <p>1 A. Okay. And now the question was?</p> <p>2 Q. (BY MR. FREEMAN) Did DPS provide data more</p> <p>3 than once after August 31st, 2012, for the purpose of</p> <p>4 allowing S.B. 14 analysis to be conducted?</p> <p>5 MR. KEISTER: Objection, form.</p> <p>6 Mischaracterizes previous testimony. No foundation.</p> <p>7 A. I'm not aware of what data was provided after</p> <p>8 that date.</p> <p>9 Q. (BY MR. FREEMAN) You're not aware of the</p> <p>10 scope of the data or the frequency with which data was</p> <p>11 provided or both?</p> <p>12 A. Both these -- all the above.</p> <p>13 Q. Okay. Are you aware of any future plans for</p> <p>14 DPS to provide data for the purpose of conducting S.B.</p> <p>15 14-related analysis?</p> <p>16 MR. FREEMAN: Don't give any testimony</p> <p>17 with respect to attorney/client information. But to</p> <p>18 the extent there's anything else, you can answer that.</p> <p>19 MR. KEISTER: If there is.</p> <p>20 Q. (BY MR. FREEMAN) You're not aware?</p> <p>21 A. No.</p> <p>22 Q. Okay. All right. One last topic and then</p> <p>23 you're done with me. Are Texas driver's licenses</p> <p>24 available to individuals who are not U.S. citizens?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">142</p> <p>1 A. I would assume the Secretary of State would</p> <p>2 have known if they conducted the analysis.</p> <p>3 Q. Who in DPS would have been made aware of that</p> <p>4 information?</p> <p>5 MR. KEISTER: Object to form. Calls for</p> <p>6 speculation. Mischaracterizes previous testimony.</p> <p>7 A. I don't know.</p> <p>8 Q. (BY MR. FREEMAN) Are you aware of whether DPS</p> <p>9 provided data more than once since August 31st, 2012,</p> <p>10 with regard to any S.B. 14-related analysis?</p> <p>11 MR. KEISTER: Objection, form.</p> <p>12 Q. (BY MR. FREEMAN) Did DPS become -- provide</p> <p>13 data on more than one occasion in order for S.B.</p> <p>14 14-related analysis to be conducted?</p> <p>15 MR. FREEMAN: I'm also going to object to</p> <p>16 the fact that the witness just looked at a note that</p> <p>17 was passed between counsel while a question was</p> <p>18 pending.</p> <p>19 MR. KEISTER: No, he did not, Dan. I was</p> <p>20 looking at that and I just --</p> <p>21 A. What's your question?</p> <p>22 MR. KEISTER: Hold on. Let me caution</p> <p>23 the witness that anything that has to do with</p> <p>24 litigation or attorney/client information, you are not</p> <p>25 to answer that question.</p>	<p style="text-align: right;">144</p> <p>1 Q. Under what circumstances?</p> <p>2 A. If an applicant is here on a visa or some</p> <p>3 limited term they are still eligible for a driver's</p> <p>4 license restricted to the expiration of their legal</p> <p>5 presence in the U.S.</p> <p>6 Q. Is there any difference in format between a</p> <p>7 driver's license issued to a citizen and a driver's</p> <p>8 license issued to a noncitizen?</p> <p>9 A. No. Not that I'm aware of.</p> <p>10 Q. If an individual has a green card but is not a</p> <p>11 citizen, is there any distinction between the</p> <p>12 expiration of the driver's license of that noncitizen</p> <p>13 and the expiration of a driver's license of a citizen?</p> <p>14 A. The expiration of a driver's license of a</p> <p>15 noncitizen is limited to the term that they're</p> <p>16 permitted to legally be in the U.S.</p> <p>17 Q. But if a noncitizen has an indefinite</p> <p>18 permission to be present there will be no distinction</p> <p>19 in expiration date between their driver's license and a</p> <p>20 citizen's driver's license --</p> <p>21 A. Correct.</p> <p>22 Q. -- is that correct?</p> <p>23 Are Texas ID cards available to</p> <p>24 individuals who are not U.S. citizens?</p> <p>25 A. Yes.</p>

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<p style="text-align: right;">145</p> <p>1 Q. Same circumstances?</p> <p>2 A. Yes, sir.</p> <p>3 Q. Are Texas license to -- licenses to carry a</p> <p>4 concealed handgun available to individuals who are not</p> <p>5 U.S. citizens?</p> <p>6 A. I'm not aware.</p> <p>7 Q. Very quick with this.</p> <p>8 (Exhibit 45 marked.)</p> <p>9 Q. (BY MR. FREEMAN) What is this document?</p> <p>10 A. This appears to be a copy of the Texas</p> <p>11 Administrative Code Title 37, Chapter 15, Subchapter</p> <p>12 (b).</p> <p>13 Q. Section 15.46?</p> <p>14 A. Section 15.46.</p> <p>15 Q. Have you seen this document before?</p> <p>16 A. Well, not this particular document, excuse me.</p> <p>17 I have seen the rule.</p> <p>18 Q. Okay. Am I correct that this document states,</p> <p>19 "An applicant for a driver's license or ID must provide</p> <p>20 information relating to their United States</p> <p>21 citizenship"?</p> <p>22 A. Yes.</p> <p>23 Q. How is this regulation applied with regard to</p> <p>24 individuals who are noncitizens and apply for a Texas</p> <p>25 driver's license or ID card?</p>	<p style="text-align: right;">147</p> <p>1 Q. Are there any other guidelines, regulations,</p> <p>2 policies or procedures specific to the ability of a</p> <p>3 noncitizen to obtain a Texas driver's license or</p> <p>4 personal identification card?</p> <p>5 A. Let me hear the question again.</p> <p>6 Q. Are there any other guidelines, regulations,</p> <p>7 policies or procedures that specifically apply to the</p> <p>8 ability of noncitizens to obtain a Texas driver's</p> <p>9 license or personal identification card?</p> <p>10 A. Not that I'm aware of.</p> <p>11 MR. FREEMAN: Okay. I pass the witness.</p> <p>12 MR. KEISTER: Lunch?</p> <p>13 THE REPORTER: Off the record?</p> <p>14 MR. KEISTER: Yeah.</p> <p>15 (Lunch Recess from 12:16 to 12:44 p.m.)</p> <p>16 THE REPORTER: Back on the record.</p> <p>17 EXAMINATION</p> <p>18 BY MR. BRAZIL:</p> <p>19 Q. Good afternoon.</p> <p>20 A. Good afternoon.</p> <p>21 Q. I've got a few areas that I want to cover with</p> <p>22 you before the other gentlemen have a turn as well.</p> <p>23 And I speak very slowly so give me an opportunity to</p> <p>24 finish my question before you give an answer. And I'll</p> <p>25 try to be very precise with my questions. That way we</p>
<p style="text-align: right;">146</p> <p>1 A. I'm not sure I understand your question.</p> <p>2 Q. Am I correct that this states that an</p> <p>3 applicant must provide information relating to their</p> <p>4 United States citizenship?</p> <p>5 A. Correct.</p> <p>6 Q. What if an applicant is not a United States</p> <p>7 citizen?</p> <p>8 A. Then they have to provide proof of lawful</p> <p>9 presence.</p> <p>10 Q. Okay. So this -- this regulation does not</p> <p>11 apply to U.S. -- to non-U.S. citizens, correct?</p> <p>12 MR. KEISTER: Objection, calls for legal</p> <p>13 conclusion and legal opinion.</p> <p>14 A. I don't know.</p> <p>15 Q. (BY MR. FREEMAN) Okay. Is there any way for</p> <p>16 an individual to know from the face of a Texas driver's</p> <p>17 license, personal identification -- or personal</p> <p>18 identification card that the carrier is a U.S. citizen?</p> <p>19 A. Not that I'm aware of.</p> <p>20 Q. Are there any current valid driver's licenses</p> <p>21 or ID cards in circulation that don't distinguish</p> <p>22 between citizens and noncitizens?</p> <p>23 A. That don't distinguish?</p> <p>24 Q. That's correct.</p> <p>25 A. I don't know.</p>	<p style="text-align: right;">148</p> <p>1 can get in, get out, and move on. Okay?</p> <p>2 A. Yes, sir.</p> <p>3 Q. If you do not understand one of my questions</p> <p>4 just say, "Scott, slow down," or, "Stop, back up,"</p> <p>5 whatever. Fair enough?</p> <p>6 A. Yes, sir. Yes, sir.</p> <p>7 Q. I want to understand -- I like things simple.</p> <p>8 I would like to understand and can you help me</p> <p>9 understand the driver's license database. I understand</p> <p>10 from your testimony that the jury wheel is a part of</p> <p>11 the driver's license database; is that correct?</p> <p>12 A. The data for the jury wheel comes from the</p> <p>13 driver license database, correct.</p> <p>14 Q. So is there a master database that is</p> <p>15 maintained by DPS?</p> <p>16 A. With respect to driver's license?</p> <p>17 Q. Yes.</p> <p>18 A. Yes, sir.</p> <p>19 Q. Okay. And is there -- are there other</p> <p>20 databases maintained by DPS other than the driver's</p> <p>21 license database?</p> <p>22 A. Yes, sir.</p> <p>23 Q. Okay. And what are those?</p> <p>24 A. There's a criminal history database.</p> <p>25 Q. Okay.</p>

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<p style="text-align: right;">165</p> <p>1 compliance based on the fact that the legislature only</p> <p>2 meets once every two years, and some of the compliance</p> <p>3 is going to require legislation.</p> <p>4 Q. Okay. When you apply for a driver's license,</p> <p>5 does DPS do a background check or criminal history</p> <p>6 check?</p> <p>7 A. Don't do a criminal history check.</p> <p>8 Q. Okay. What type of background check, if any,</p> <p>9 does DPS do?</p> <p>10 A. We don't do a background check. We do a</p> <p>11 warrant check.</p> <p>12 Q. Okay. And that's different from a criminal</p> <p>13 history check?</p> <p>14 A. Yes, sir. A criminal history check would give</p> <p>15 you all of your arrests and whether or not there were</p> <p>16 convictions, et cetera.</p> <p>17 Q. Okay. Just do a warrant search?</p> <p>18 A. A warrant search.</p> <p>19 Q. Okay. The same for CHL or is it more</p> <p>20 extensive?</p> <p>21 A. The -- it's my understanding -- I'm not part</p> <p>22 of CHL, but it's my understanding that the background</p> <p>23 check for CHL is more extensive.</p> <p>24 Q. Let me switch gears, if I may. And I will try</p> <p>25 not to re-plow old ground, okay?</p>	<p style="text-align: right;">167</p> <p>1 the counties would be just their personnel?</p> <p>2 A. Yes, sir, to my knowledge.</p> <p>3 Q. Okay. Is there any -- was there any budget</p> <p>4 items, specific budget item in S.B. 14 that would</p> <p>5 assist the counties in the EIC training or the extra</p> <p>6 manpower they may need, anything of that sort?</p> <p>7 A. No, sir.</p> <p>8 Q. Was there any extra money in the S.B. 14</p> <p>9 budget for assisting DPS with handling the EICs or any</p> <p>10 issue of S.B. 14 to your knowledge?</p> <p>11 A. No, sir.</p> <p>12 Q. So it had to come from -- your budget comes,</p> <p>13 what, out of transportation? I forget. But anyway.</p> <p>14 A. Some of it comes out of you Fund 6, but not</p> <p>15 all of it.</p> <p>16 Q. All right. Was there -- there was no extra</p> <p>17 money given to or allocated to DPS to help implement</p> <p>18 S.B. 14?</p> <p>19 A. That's correct.</p> <p>20 Q. Okay. It just comes out of your operating</p> <p>21 budget?</p> <p>22 A. That's correct.</p> <p>23 Q. Okay. Has anybody done a study at DPS on the</p> <p>24 impact, the fiscal impact of S.B. 14 on the DPS budget?</p> <p>25 A. Yes, we have.</p>
<p style="text-align: right;">166</p> <p>1 A. Okay.</p> <p>2 Q. I thought you would know what that term meant.</p> <p>3 The EIC training given to the counties,</p> <p>4 is it only when they request it? Is there any mandate,</p> <p>5 rule or regulation that says that counties have to</p> <p>6 undergo EIC training?</p> <p>7 A. That's in the memorandum of agreement between</p> <p>8 DPS and the county.</p> <p>9 Q. So it's voluntary?</p> <p>10 A. No, sir. If -- if they don't complete the</p> <p>11 training then we won't execute the agreement.</p> <p>12 Q. They that will not be allowed to do -- to</p> <p>13 issue EICs on their own?</p> <p>14 A. Correct.</p> <p>15 Q. You would have to send a mobile EIC unit to</p> <p>16 that county?</p> <p>17 A. Correct.</p> <p>18 Q. When a county is -- does receive the training</p> <p>19 or does undergo the training and is part of that</p> <p>20 agreement, are they provided the equipment to issue the</p> <p>21 EICs?</p> <p>22 A. Yes, they are.</p> <p>23 Q. Okay. By DPS?</p> <p>24 A. Yes, sir.</p> <p>25 Q. Okay. So the only -- so the budget issue to</p>	<p style="text-align: right;">168</p> <p>1 Q. And who performed that and where would I find</p> <p>2 it?</p> <p>3 A. The -- our driver license financial analyst</p> <p>4 and our finance division.</p> <p>5 Q. Any specific names or just somebody in those</p> <p>6 divisions?</p> <p>7 A. Saundra Truett is our financial analyst and</p> <p>8 I'm not sure who in finance would have participated in</p> <p>9 that.</p> <p>10 Q. Okay. Was that provided to the legislature</p> <p>11 during the process of S.B. 14? When was that provided,</p> <p>12 do you know?</p> <p>13 A. During the process of S.B. 14 there was a</p> <p>14 fiscal note prepared and supplied to the legislative</p> <p>15 budget board.</p> <p>16 Q. And how is that different from the analysis we</p> <p>17 just spoke about?</p> <p>18 A. The fiscal note estimated the -- well,</p> <p>19 actually we knew what the cost of a card would be. And</p> <p>20 we provided that information. We had no idea how to</p> <p>21 calculate how much staff time would be involved in</p> <p>22 issuing EICs without knowing what the volume of EIC</p> <p>23 applicants would be.</p> <p>24 Q. Do you recall when that fiscal note was</p> <p>25 provided?</p>

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<p style="text-align: right;">169</p> <p>1 A. 2000 -- it was just prior to passage of S.B. 2 14. 3 Q. And do you recall the amount that was 4 estimated? 5 A. No, I don't -- 6 Q. Ballpark it. 7 A. -- I don't recall the amount in total. There 8 were -- there were costs to the bill dependent upon how 9 many EICs would be issued or would have been issued. 10 And that was indeterminant. 11 Q. Okay. 12 A. The only thing we could determine was that 13 each card was going to cost us so much money and that, 14 again, the total would have been dependent on how many 15 were issued. 16 Q. Okay. Has there been a follow-up study to 17 that to determine what the actual cost was? 18 A. We have done an analysis as to what staff time 19 DPS employees have spent with respect to providing EIC 20 such as those that -- the employees that were 21 dispatched from a regular driver license office to a 22 mobile site. 23 We began tracking how much time they 24 spent on EICs, oh, last September I believe, September 25 or October, and we actually added a field in our</p>	<p style="text-align: right;">171</p> <p>1 Q. And they're given the equipment by DPS? 2 A. Yes, sir. 3 Q. And how long do they get to keep the 4 equipment? Is it up to them, is it pursuant to some 5 agreement? 6 A. It's pursuant to the agreement, but it's up to 7 them, they keep it as long as they're willing to 8 provide the service. 9 Q. And for those counties that will not provide 10 the service, that's when a mobile unit is utilized? 11 A. With DPS employees, yes, sir. 12 Q. So if a county says, "We're not going to be 13 part of that agreement," DPS would set up their mobile 14 station? 15 A. Yes, sir. 16 Q. And be manned only by DPS employees? 17 A. Correct. 18 Q. How would they determine the location and the 19 timing of those mobile units? 20 A. The location is determined by the local 21 supervisors. They'll travel to one of those counties 22 and scout potential locations and then determine 23 whether or not the owner or the proprietor of the 24 location agrees to let us have space for so many hours 25 a day for so many days.</p>
<p style="text-align: right;">170</p> <p>1 employee time accounting system to where when -- when a 2 CSR enters their time, if they spent one hour or six 3 hours providing EIC service, they enter it as EIC. And 4 we're now able to track how much time a DPS employee 5 spends on EIC specifically. 6 Q. Has DPS had -- had to hire extra people to 7 assist with implementation of S.B. 14? 8 A. No, sir. 9 Q. Do you know as we sit here today what the cost 10 has been to date to DPS? 11 A. The last analysis that I saw was \$845,000 and 12 that included equipment during the initial deployment. 13 That cost has gone down considerably since that time 14 because we don't have to buy more equipment, all we're 15 doing is providing staff time. 16 Q. Does that number include staff time also, that 17 890 -- 845? 18 A. Yes, sir. That's everything we could come up 19 with that touched EIC. 20 Q. Including the cost of the card? 21 A. Yes, sir. 22 Q. So when a county enters into this agreement 23 with DPS to handle the processing of EICs they are 24 given the training by DPS? 25 A. Yes, sir.</p>	<p style="text-align: right;">172</p> <p>1 Q. And is there a separate budget for the mobile 2 units? 3 A. No, sir. 4 Q. It's just part of the overall -- 5 A. Part of overall operation. Driver license, ID 6 card and EIC are all in the same operational budget. 7 Q. And when we talk about these mobile units, 8 we're talking about basically enough equipment to be 9 one unit? 10 A. Yes, sir. 11 Q. Okay. And there are 25 of these units? 12 A. Well, there are 25 that the Secretary of State 13 has. And then I don't remember the number now that DPS 14 has, but I think it's -- well, I don't know. It would 15 be guessing. 16 Q. Okay. 17 A. But there are additional mobile units other 18 than the 25 that I think you were referring to that the 19 Secretary of State owns. 20 Q. And when would the Secretary of State utilize 21 a mobile unit versus DPS? 22 A. The Secretary of State generally responds to 23 requests from the local community, the local political 24 leaders, the legislature for mobile sites and offices 25 or, rather, in locations where we already have a driver</p>

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<p style="text-align: right;">173</p> <p>1 license office presence.</p> <p>2 For example, Houston is an area where</p> <p>3 they've provided mobile service in addition to all of</p> <p>4 the driver license offices. We -- or I say Secretary</p> <p>5 of State has provided mobile sites in Harris County,</p> <p>6 Dallas County, Tarrant County, I believe Hidalgo</p> <p>7 County. I'm not sure who else.</p> <p>8 Q. And DPS provides in those counties that do not</p> <p>9 have a driver's license office?</p> <p>10 A. I'm sorry?</p> <p>11 Q. You -- DPS utilizes their mobile units in</p> <p>12 counties that do not have a driver's license office?</p> <p>13 A. No, sir, not necessarily because all of those</p> <p>14 counties all have driver license offices. This is in</p> <p>15 addition to what the -- like, a senator requested a</p> <p>16 mobile station at a certain church in Harris County</p> <p>17 Secretary of State provided that one.</p> <p>18 Q. Who could request a DPS mobile unit?</p> <p>19 A. Local officials can request it. In the case</p> <p>20 where we -- where we don't get a request from a local</p> <p>21 county, our goal was to be able to provide EIC</p> <p>22 availability in all 254 counties before every election.</p> <p>23 Q. So the same people could -- the same officials</p> <p>24 could request the Secretary of State's mobile units as</p> <p>25 DPS as well?</p>	<p style="text-align: right;">175</p> <p>1 about the monetary studies by DPS on the -- for</p> <p>2 example, the wait times at some of the offices.</p> <p>3 Have -- has there been any study to determine if the</p> <p>4 lines are longer or there's more wait because of the</p> <p>5 issuance of EICs?</p> <p>6 A. No, sir. We track wait times in some of the</p> <p>7 larger offices with queueing systems in places, but EIC</p> <p>8 transactions are not distinguished in those queueing</p> <p>9 systems.</p> <p>10 Q. Have you seen any increase in the wait time</p> <p>11 since the -- since S.B. 14 went into effect?</p> <p>12 A. No, sir. As a matter of fact, we're seeing</p> <p>13 decreases in wait times.</p> <p>14 Q. Can a county request directly from DPS one of</p> <p>15 their databases?</p> <p>16 A. I'm sorry? One of their databases?</p> <p>17 Q. Yes.</p> <p>18 A. The counties -- the county appraisal districts</p> <p>19 can request the driver's license database.</p> <p>20 Q. Any other database that you're aware of?</p> <p>21 A. I'm not aware of any other database they can</p> <p>22 ask for the entire database. The counties' sheriff's</p> <p>23 office and police departments all have access to the</p> <p>24 criminal history database via the Texas law enforcement</p> <p>25 telecommunications system.</p>
<p style="text-align: right;">174</p> <p>1 A. Yes, sir.</p> <p>2 Q. Okay. Are you aware of any provision of S.B.</p> <p>3 14 that the DPS wanted delayed implementation of?</p> <p>4 A. No, sir.</p> <p>5 Q. Did anybody lobby on behalf of DPS for extra</p> <p>6 funding for the implementation of S.B. 14?</p> <p>7 A. No, sir. We don't lobby.</p> <p>8 Q. Ask for. Let me change the term.</p> <p>9 A. There may have been a suggestion but --</p> <p>10 Q. Okay. Do you know --</p> <p>11 A. No.</p> <p>12 Q. -- if someone made that suggestion and had a</p> <p>13 specific amount in mind?</p> <p>14 A. No, I don't.</p> <p>15 Q. Do you know if the counties asked for a</p> <p>16 specific budgetary item to help them comply with any</p> <p>17 part of S.B. 14?</p> <p>18 A. I'm not. Unless they may have made some</p> <p>19 request to local commissioner's court, and I would not</p> <p>20 be aware of that.</p> <p>21 Q. Are you aware of any rule or regulation or law</p> <p>22 that makes it mandatory for the counties to undergo the</p> <p>23 training to issue EICs?</p> <p>24 A. No, sir.</p> <p>25 Q. Have there been any studies -- you talked</p>	<p style="text-align: right;">176</p> <p>1 Y'all have to access to the sex offender</p> <p>2 registry as well.</p> <p>3 Q. But the driver's license database is not</p> <p>4 automatically accessible to the counties?</p> <p>5 A. It is to the law enforcement community in</p> <p>6 those counties.</p> <p>7 Q. But not to the voter registrar or election</p> <p>8 official in each county?</p> <p>9 A. I'm not aware that the voter registrar is.</p> <p>10 Q. Can they request it and be given it, given the</p> <p>11 driver's license database?</p> <p>12 A. I suppose they can request it. I don't know</p> <p>13 that they would be given the entire database.</p> <p>14 Q. Do you know if there's any rule or regulation</p> <p>15 that would prevent your office from giving them?</p> <p>16 A. I don't know of one.</p> <p>17 Q. Who is Mark Doggett? Does he work for DPS?</p> <p>18 A. He used to.</p> <p>19 Q. What was his position when he was there?</p> <p>20 A. He was assistant director for the information</p> <p>21 technology division.</p> <p>22 Q. Was part of his job EICs or part of the</p> <p>23 implementation of S.B. 14?</p> <p>24 A. I'm not sure when he left. But he may have</p> <p>25 had a part in -- in the S.B. 14 development.</p>

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<p style="text-align: right;">177</p> <p>1 Q. Did someone request that Texas State conduct</p> <p>2 some kind of survey that was going to assist DPS?</p> <p>3 A. Yes.</p> <p>4 Q. And did DPS make that request or do you know?</p> <p>5 A. DPS made the request.</p> <p>6 Q. And what did they ask Texas State to do?</p> <p>7 A. We asked Texas State to look at population</p> <p>8 centers and projected population growth and in order to</p> <p>9 use that data to determine where we needed to place our</p> <p>10 mega centers and that the -- the legislature had given</p> <p>11 us money to -- for driver -- I'm sorry -- driver</p> <p>12 license improvement.</p> <p>13 And the -- the decision was to establish</p> <p>14 these large driver license offices with a minimum of 25</p> <p>15 customer service representatives in the office, and we</p> <p>16 wanted to be certain that those offices were placed in</p> <p>17 population centers where they would be the most</p> <p>18 effective and where the population was going, where the</p> <p>19 trends were, so we wouldn't invest in an office that</p> <p>20 five years down the road was not in a population</p> <p>21 center -- you know, if the population grew the other</p> <p>22 direction, we didn't want people to have to drive clear</p> <p>23 across the county to get to a major driver license</p> <p>24 office.</p> <p>25 Q. Did any part of that request have within the</p>	<p style="text-align: right;">179</p> <p>1 Q. You mentioned, with the counties, memorandum</p> <p>2 of agreement. Was that the exhibit we looked at?</p> <p>3 A. Yes, sir.</p> <p>4 Q. Okay. Did -- has the DPS to your knowledge</p> <p>5 done any survey or study to determine what the cost to</p> <p>6 an individual is in, for example, obtaining a birth</p> <p>7 certificate, certified copy of the birth certificate or</p> <p>8 any of the other forms of identification we've talked</p> <p>9 about?</p> <p>10 A. No, sir.</p> <p>11 Q. Can someone get a birth certificate at the</p> <p>12 state -- I mean at the county level or do they have to</p> <p>13 go to the state level to get that or do you know?</p> <p>14 A. Well, it's my understanding they can get -- in</p> <p>15 most cases they can get them at county level, but I</p> <p>16 have no DPS knowledge of that.</p> <p>17 Q. Okay. Just so I understand, you talked</p> <p>18 about -- you spoke about the fiscal note that was</p> <p>19 provided sometime ago and then you said there was</p> <p>20 something else done by someone within DPS to evaluate</p> <p>21 the cost of S.B. 14. Are those -- did I get that</p> <p>22 correct, that there's two different analyses or --</p> <p>23 A. Well, it was all contained in the same</p> <p>24 analyses, and DPS staff in that fiscal note said that</p> <p>25 each EIC card, the production of that card would cost</p>
<p style="text-align: right;">178</p> <p>1 request S.B. 14 or any of the requirements that DPS was</p> <p>2 going to have to meet, anything of that sort?</p> <p>3 A. Not that I'm aware of.</p> <p>4 Q. Is it separate and apart, as you know it, from</p> <p>5 S.B. 14?</p> <p>6 A. That was done in order to improve our driver</p> <p>7 license wait times.</p> <p>8 Q. Is that one of the reasons that you said the</p> <p>9 wait time has gone down --</p> <p>10 A. Those --</p> <p>11 Q. -- because of the mega centers?</p> <p>12 A. Those are one of the reasons. And some of the</p> <p>13 other offices we've done refreshes and modified the</p> <p>14 traffic flow within the office. That also has</p> <p>15 contributed.</p> <p>16 Q. Did you have to reallocate resources at DPS</p> <p>17 offices for the EIC implementation?</p> <p>18 A. No, sir.</p> <p>19 Q. You just utilized existing personnel and</p> <p>20 trained them for EICs?</p> <p>21 A. That's correct.</p> <p>22 Q. And that training is very similar to a</p> <p>23 personal ID processing?</p> <p>24 A. It would be, although the DL process would be</p> <p>25 a little more extensive.</p>	<p style="text-align: right;">180</p> <p>1 some amount and that there would be a cost to the bill</p> <p>2 for if someone came in and got an EIC and then did not</p> <p>3 have to -- to purchase an ID or a driver's license, how</p> <p>4 many ever -- the assumption was made for the purposes</p> <p>5 of that fiscal note that if a thousand people came in</p> <p>6 and got EICs and thus didn't require an ID or a DL,</p> <p>7 then that would be a loss of revenue to the State by</p> <p>8 whatever amount the driver license or the ID card would</p> <p>9 have cost.</p> <p>10 Q. How often is the State -- the DPS driver's</p> <p>11 license database updated?</p> <p>12 A. Daily.</p> <p>13 Q. Okay. Is that the same for purging people</p> <p>14 that have died or whatever?</p> <p>15 A. No, sir.</p> <p>16 Q. Okay. When does that occur? When does the</p> <p>17 purging occur?</p> <p>18 A. If -- if we get notified that a death has</p> <p>19 occurred, then we'll purge. But the database has quite</p> <p>20 a few in there where we did not receive notification</p> <p>21 and the driver is no longer with us.</p> <p>22 Q. Do some people fall off automatically? When</p> <p>23 it's not renewed for a certain period of time, are they</p> <p>24 purged from the system?</p> <p>25 A. No, sir.</p>

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<p style="text-align: right;">185</p> <p>1 discussion with Secretary of State's office.</p> <p>2 Q. Originally, a fingerprint scanner or device</p> <p>3 was in the budget for the mobile units, correct?</p> <p>4 A. No, sir, there was no budget for mobile units.</p> <p>5 Q. Was there an estimate made for the mobile unit</p> <p>6 equipment --</p> <p>7 A. Yes, sir.</p> <p>8 Q. -- cost?</p> <p>9 A. Yes, sir.</p> <p>10 Q. Was it -- was included in that a fingerprint</p> <p>11 device?</p> <p>12 A. Initially, yes, sir.</p> <p>13 Q. Were they ever supplied to the mobile units</p> <p>14 for any period of time?</p> <p>15 A. They were not. We ordered them and then by</p> <p>16 the time we got them they had to go through testing and</p> <p>17 we decided against capturing fingerprints so we</p> <p>18 returned them to the vendor.</p> <p>19 Q. Where would I find or who would have</p> <p>20 possession of the documents that would address the cost</p> <p>21 issues that you spoke of earlier, the</p> <p>22 eight-hundred-plus thousand dollars, that cost on the</p> <p>23 DPS?</p> <p>24 A. Driver license division will have that</p> <p>25 document that was put together. It's just a</p>	<p style="text-align: right;">187</p> <p>1 A. Well, the information in that document would</p> <p>2 have come from DPS.</p> <p>3 Q. Okay. Was it prepared by DPS?</p> <p>4 A. I don't know who it was prepared by.</p> <p>5 Q. Okay. Do you --</p> <p>6 A. But some of the numbers in here do look</p> <p>7 familiar to me.</p> <p>8 Q. -- have any idea when that document may been</p> <p>9 prepared?</p> <p>10 A. No, sir.</p> <p>11 Q. Okay. That would be number --</p> <p>12 THE REPORTER: 46.</p> <p>13 MR. BRAZIL: 46.</p> <p>14 (Exhibit 46 marked.)</p> <p>15 MR. KEISTER: Let me see that just to get</p> <p>16 the number off of it.</p> <p>17 Q. (BY MR. BRAZIL) Did DPS contact directly any</p> <p>18 of the counties regarding the EIC mobile units? I</p> <p>19 mean, did you reach out and say, "Okay, we don't have a</p> <p>20 DPS office in this county, so contact that county and</p> <p>21 see if they will undergo the training or whatever"?</p> <p>22 A. We did.</p> <p>23 Q. And did you have somebody assigned to do that</p> <p>24 or how did that occur?</p> <p>25 A. In some cases the senior managers contacted</p>
<p style="text-align: right;">186</p> <p>1 spreadsheet that listed the cost.</p> <p>2 Q. Do you know if that's been produced in this</p> <p>3 litigation?</p> <p>4 A. I don't.</p> <p>5 Q. I'm trying not to re-plow the same ground.</p> <p>6 A. Much appreciated.</p> <p>7 Q. Let me show you what I did locate and I was</p> <p>8 not exactly sure what this was, but I'll hand you -- we</p> <p>9 may mark it as an exhibit but it's -- it's</p> <p>10 TEX 00220420.</p> <p>11 Can you tell me what that document is?</p> <p>12 A. It appears to be a calculation that was</p> <p>13 utilized in putting the fiscal note together for S.B.</p> <p>14 14. I mean, it doesn't -- and it says, "Cost to</p> <p>15 implement S.B. 14."</p> <p>16 And I don't know when this was produced,</p> <p>17 but that's what it appears.</p> <p>18 Q. Is any of the information in that document,</p> <p>19 was any of that produced by or provided by DPS?</p> <p>20 A. In this document?</p> <p>21 Q. Yes.</p> <p>22 A. Well, it was provided in the fiscal note. Are</p> <p>23 you talking about provided to -- for this litigation?</p> <p>24 Q. No. Provided -- did DPS prepare that</p> <p>25 document? Let me ask it more simply.</p>	<p style="text-align: right;">188</p> <p>1 the counties. In some cases the -- one of the deputy</p> <p>2 assistant directors contacted the county and in most of</p> <p>3 the cases the regional manager of the region involved</p> <p>4 contacted the counties.</p> <p>5 Q. What happens when someone's driver's license</p> <p>6 is revoked? What does DPS do? Do they send a letter?</p> <p>7 How does that occur?</p> <p>8 A. They send a letter.</p> <p>9 Q. Same with the CHL, I assume?</p> <p>10 A. I don't know what happens with a CHL.</p> <p>11 Q. Let me check my notes here. I'm just about</p> <p>12 finished.</p> <p>13 When a mobile site was set up and a</p> <p>14 county underwent the training and was going to issue</p> <p>15 the EICs, who would transport the equipment to the</p> <p>16 county?</p> <p>17 A. The training staff did that.</p> <p>18 Q. And then the County would sign off on receipt</p> <p>19 of the equipment?</p> <p>20 A. That's correct.</p> <p>21 Q. Was there any -- to your knowledge is there</p> <p>22 any rule or regulation or mandate that the county open</p> <p>23 their EIC office on Saturday?</p> <p>24 A. No, sir.</p> <p>25 Q. So it was up to the individual counties?</p>

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<p style="text-align: right;">189</p> <p>1 A. Yes, sir.</p> <p>2 Q. I believe I'll pass the witness. Thank you.</p> <p>3 A. Thank you.</p> <p>4 THE REPORTER: You want to go off the</p> <p>5 record?</p> <p>6 (Discussion off the record.)</p> <p>7 EXAMINATION</p> <p>8 BY MR. DUNBAR:</p> <p>9 Q. Good afternoon, Mr. Peters. I'm Kelly Dunbar</p> <p>10 again. And as with -- I know we've covered lots of</p> <p>11 ground today, so apologies in advance if I'm jumping</p> <p>12 around a bit. But it will be also in a perhaps failed</p> <p>13 effort to avoid repeating some ground.</p> <p>14 And I know Mr. Freeman gave you a series</p> <p>15 of instructions about rules of the deposition. I won't</p> <p>16 repeat those, but it -- I assume you understand them</p> <p>17 and if you have any questions, obviously feel free to</p> <p>18 ask.</p> <p>19 A. Understood.</p> <p>20 Q. So I would like to start with the line of</p> <p>21 questions about the locations of DPS offices generally</p> <p>22 and in particular with reference to public</p> <p>23 transportation. And just to be clear, for this line of</p> <p>24 questioning when I refer to DPS offices, I'm referring</p> <p>25 to the traditional brick-and-mortar office. I will</p>	<p style="text-align: right;">191</p> <p>1 Q. And what would those other services be?</p> <p>2 A. Primarily they would house other divisions,</p> <p>3 agents and rangers and so forth of other divisions</p> <p>4 within the department. Criminal investigations,</p> <p>5 administration.</p> <p>6 Q. Got it. Got it. That makes sense. So and</p> <p>7 that is a helpful clarification, then, for me. So when</p> <p>8 I refer to "DPS offices" then for series, unless</p> <p>9 context indicates otherwise or I say otherwise, I'm</p> <p>10 meaning driver's license DPS offices.</p> <p>11 A. Okay.</p> <p>12 Q. And so as I understand your testimony there</p> <p>13 are 78 -- currently 78 counties without a DPS office;</p> <p>14 is that right?</p> <p>15 A. Correct.</p> <p>16 Q. And are these counties concentrated in</p> <p>17 specific geographic regions in the state?</p> <p>18 A. No, sir. They're not concentrated in any</p> <p>19 specific geographic region of the state. For the most</p> <p>20 part they're rural area, counties and probably more in</p> <p>21 the West Texas region than East Texas.</p> <p>22 Q. Okay. So if you had to generalize about</p> <p>23 counties that don't have a DPS office it would be some</p> <p>24 combination of rural West Texas, understanding that</p> <p>25 those -- there are probably lots of exceptions to that?</p>
<p style="text-align: right;">190</p> <p>1 have some questions about the mobile EIC units or</p> <p>2 stations or whatever we're calling them later, but for</p> <p>3 this series of questions a reference to a DPS office</p> <p>4 will be a reference to a brick-and-mortar operation.</p> <p>5 Does that make sense to you?</p> <p>6 A. Yes, sir.</p> <p>7 Q. Great.</p> <p>8 A. And you do understand that some DPS offices</p> <p>9 are not driver license offices and some are combination</p> <p>10 and so forth.</p> <p>11 Q. That's exactly all things I want to get to --</p> <p>12 A. Okay.</p> <p>13 Q. -- to help make sure I understand. I do not</p> <p>14 understand that as well you.</p> <p>15 A. Okay.</p> <p>16 Q. So how many DPS offices are located in Texas,</p> <p>17 total?</p> <p>18 A. There are 228 driver license offices and there</p> <p>19 are more than that of -- I assume. I don't know how</p> <p>20 many total offices there are.</p> <p>21 Q. Okay. And in those offices that do not -- so</p> <p>22 there are some driver's -- there are some DPS offices,</p> <p>23 then, that do not provide driver's license services but</p> <p>24 provide other services?</p> <p>25 A. That's correct.</p>	<p style="text-align: right;">192</p> <p>1 A. Yes, and the Panhandle.</p> <p>2 Q. Correct. And does DPS know anything about the</p> <p>3 racial demographics of the counties without DPS</p> <p>4 offices?</p> <p>5 A. No, sir.</p> <p>6 Q. Has anyone at DPS ever studied or analyzed</p> <p>7 that issue?</p> <p>8 A. Not that I'm aware of.</p> <p>9 Q. Stepping back at a more general level, how is</p> <p>10 the decision to locate a new DPS office made?</p> <p>11 A. We want to locate the offices in areas of the</p> <p>12 greatest population concentration.</p> <p>13 Q. Uh-huh.</p> <p>14 A. And as mentioned earlier, we utilized the</p> <p>15 Texas State study to determine what the projected</p> <p>16 populations were going to be over the next ten years.</p> <p>17 Q. Right. And I guess at a very even more basic</p> <p>18 level, who actually makes the decision, the final</p> <p>19 decision where to locate a DPS office?</p> <p>20 A. The driver's license division administration</p> <p>21 makes a recommendation to the director, and the Public</p> <p>22 Safety Commission generally has final say. And if they</p> <p>23 don't like where we want to put one, we don't put it.</p> <p>24 Q. So that you, the driver's license division,</p> <p>25 would make a recommendation to the director of DPS; DPS</p>

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<p style="text-align: right;">193</p> <p>1 would need ultimate signoff from the commission? Is</p> <p>2 that correct?</p> <p>3 A. Well, we don't have to have ultimate signoff</p> <p>4 but as a courtesy to them, so they know what's going</p> <p>5 on, we brief them.</p> <p>6 Q. I see. I see. And so are there statutes or</p> <p>7 regulations that govern the decision where to locate a</p> <p>8 DPS office?</p> <p>9 A. No, sir.</p> <p>10 Q. Okay. And as a general matter would you agree</p> <p>11 that in order for DPS to carry out its various missions</p> <p>12 the public needs to be able to physically get to a DPS</p> <p>13 office?</p> <p>14 A. If what they're trying to accomplish requires</p> <p>15 them to come to a DPS office, yes.</p> <p>16 Q. Okay. And which DPS services do not require a</p> <p>17 member of the public to actually come to an office?</p> <p>18 A. Driver license renewal, ID card renewal, CHL</p> <p>19 applications. There may be others.</p> <p>20 Q. Got it. Got it. And has DPS ever analyzed</p> <p>21 how the public actually does get to a DPS office?</p> <p>22 A. In the case of the mega centers we did.</p> <p>23 Q. Okay. And that was recently?</p> <p>24 A. Well, to the -- to the extent that we looked</p> <p>25 for locations that had access to public transportation,</p>	<p style="text-align: right;">195</p> <p>1 Q. Does that make sense?</p> <p>2 MR. KEISTER: Object to form. Calls for</p> <p>3 speculation.</p> <p>4 A. Well, I believe now that it makes sense.</p> <p>5 Depending on the population concentration. If -- if</p> <p>6 there was not public access to a driver license office,</p> <p>7 it would be a concern.</p> <p>8 Q. (BY MR. DUNBAR) Right.</p> <p>9 A. And again, it would depend on the size of the</p> <p>10 office. You know, if it's a -- if it's a small county</p> <p>11 and a one- or two-person office maybe public access is</p> <p>12 not so critical.</p> <p>13 Q. Right.</p> <p>14 A. And likely, publication transportation is not</p> <p>15 available.</p> <p>16 Q. Right. And I guess prior to S.B. 14, the</p> <p>17 pre-S.B. 14 world, would you agree with the statement</p> <p>18 that access to public transportation might not have</p> <p>19 been as important given that the demographic you were</p> <p>20 serving would be people who want driver's license or</p> <p>21 have driver's license and thus probably have access to</p> <p>22 a car or an automobile?</p> <p>23 A. I don't think that was a factor. The</p> <p>24 factor -- the primary factor in that was whether or not</p> <p>25 there was public access -- if I understood your</p>
<p style="text-align: right;">194</p> <p>1 Q. And prior to the mega -- the mega center</p> <p>2 locations, is it your understanding as the</p> <p>3 representative of DPS that historically prior to that</p> <p>4 time access to public transportation was a factor taken</p> <p>5 into consideration when locating the DPS office?</p> <p>6 A. I'm not aware that access to public</p> <p>7 transportation in the location of the earlier offices</p> <p>8 was a factor.</p> <p>9 Q. So for any DPS office that was located prior</p> <p>10 to the mega centers, DPS is simply unaware or you're --</p> <p>11 DPS -- you speaking on behalf of DPS are unaware that</p> <p>12 access to public transportation was a factor?</p> <p>13 A. Correct.</p> <p>14 Q. Is it just that you don't know or that you</p> <p>15 could actually say for certain that that was not a</p> <p>16 factor?</p> <p>17 A. It's that I don't know that -- that any</p> <p>18 evaluation was done in location of the offices prior --</p> <p>19 or access to the offices prior to the mega centers.</p> <p>20 Q. Right. And given that the public does need</p> <p>21 physical access to DPS offices for at least some DPS</p> <p>22 services, do you have an understanding of why access to</p> <p>23 public transportation wouldn't have been a factor</p> <p>24 historically?</p> <p>25 A. No.</p>	<p style="text-align: right;">196</p> <p>1 question correctly -- the consideration as to whether</p> <p>2 or not there was public access any time, whether it was</p> <p>3 S.B. 14 or before. But it just happened that the mega</p> <p>4 centers were not a gleam in our eye until Senate Bill</p> <p>5 14.</p> <p>6 Q. Okay. In going forward, then, looking</p> <p>7 prospectively, does DPS have a policy of locating</p> <p>8 future offices near public transportation?</p> <p>9 A. There's no written policy, but that's our</p> <p>10 desire.</p> <p>11 Q. That's your desire and, as with some of the</p> <p>12 other discretionary things we've talked about, that</p> <p>13 could change tomorrow. It's not written down in a law</p> <p>14 or regulation --</p> <p>15 A. No, it's not.</p> <p>16 Q. -- or policy?</p> <p>17 A. And that's a factor subject to funding</p> <p>18 availability. You know, if we had to -- if we were</p> <p>19 going to put an office in downtown office where we</p> <p>20 couldn't afford it, that would be a factor.</p> <p>21 Q. Okay.</p> <p>22 MR. DUNBAR: Hasan, could we get</p> <p>23 exhibit -- Tab 12, please.</p> <p>24 THE REPORTER: Exhibit 47.</p> <p>25 (Exhibit 47 marked.)</p>

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<p style="text-align: right;">197</p> <p>1 Q. (BY MR. DUNBAR) Mr. Peters, have you seen 2 this document before?</p> <p>3 A. Yes.</p> <p>4 Q. And there is a cover e-mail from someone named 5 Janie Smith to you which then includes an attachment. 6 For the time being I would like to focus on the 7 attachment, if you would flip the --</p> <p>8 And can you describe for me the context 9 or tell me a little bit about what this document is?</p> <p>10 MR. KEISTER: Counsel, before we go any 11 further, I'm noticing this is an attorney/client 12 document which evidently was inadvertently produced.</p> <p>13 MR. DUNBAR: Can we go off the record to 14 talk about it?</p> <p>15 MR. KEISTER: Yes, let's go off the 16 record --</p> <p>17 THE REPORTER: Off the record. 18 (Discussion off the record.)</p> <p>19 THE REPORTER: Back on the record.</p> <p>20 MR. KEISTER: Counsel, with respect to 21 Exhibit 47, the cover page e-mail, we contend, is 22 attorney/client and attorney/client work product, and 23 we're going to request that that be clawed back or 24 returned to the OAG.</p> <p>25 With respect to the information on the</p>	<p style="text-align: right;">199</p> <p>1 focus on the, quote/unquote, "Available Public 2 Transportation" column. What does "available public 3 transportation" mean?</p> <p>4 A. That means that there's public transportation 5 available to the office or within near proximity.</p> <p>6 Q. So that means, if I understand you correctly, 7 that someone -- there, say, is a bus stop located near 8 the Dallas-Garland Mega Center, for example. If 9 there's a bus stop located near the Dallas-Garland Mega 10 Center, an X was put in the "Available Public 11 Transportation" column, correct?</p> <p>12 A. That's my understanding. I didn't create the 13 document, but that's my understanding.</p> <p>14 Q. Okay. And so that means with respect to the 15 2.4 estimated million people that live in the county, 16 an X in this box does not mean that all 2.4 million of 17 those people have public transportation they could use 18 to get to that DPS office then, correct?</p> <p>19 A. I can't answer the question because I don't 20 know where the 2.4 million live and how far from access 21 to public transportation within that location they are.</p> <p>22 Q. Fair enough. But the metric that was used to 23 determine whether to put an X in the box would not tell 24 someone looking at the chart whether all 2.4 million of 25 those people could access a DPS office through public</p>
<p style="text-align: right;">198</p> <p>1 attachment, I think that's been produced and used in 2 other forums, so we don't have any objections to the -- 3 to the attachment to the e-mail.</p> <p>4 MR. DUNBAR: Okay. And for the record, I 5 understand you'll put that request in writing just for 6 all of the groups who might not be here. Is that 7 right?</p> <p>8 MR. KEISTER: That's right. We will.</p> <p>9 MR. DUNBAR: Okay.</p> <p>10 Q. (BY MR. DUNBAR) Okay. So, Mr. Peters, 11 turning to just the attachment, then, can you describe 12 for me what the attachment is?</p> <p>13 A. The attachment appears to be a list of 14 driver's license offices, the cities they're in, the 15 counties they're in, the number of employees that are 16 assigned to that office, what DPS region the office is 17 in, the office hours and days that that office is 18 open --</p> <p>19 Q. Yeah.</p> <p>20 A. -- and estimated county population in 2012 --</p> <p>21 Q. Right.</p> <p>22 A. -- and whether or not public transportation 23 was available and whether or not it has electronic 24 queuing system available.</p> <p>25 Q. Thank you. And for present purposes I want to</p>	<p style="text-align: right;">200</p> <p>1 transportation; is that correct?</p> <p>2 A. That would be correct.</p> <p>3 Q. In connection with this chart did DPS analyze 4 the costs in time or dollars for those that could make 5 use of public transportation to arrive at a DPS office?</p> <p>6 A. No, sir, not that I'm aware of.</p> <p>7 Q. And what forms of public transportation were 8 considered in creating this chart?</p> <p>9 A. Bus lines, taxi service, rail if it was 10 available.</p> <p>11 Q. So taxi service was included as a potential 12 means of available public transportation?</p> <p>13 A. That's my understanding, yes, sir.</p> <p>14 Q. So if someone could -- that lived on the 15 outskirts of, say, Dallas County could call a taxi and 16 pay \$80 to have the taxi take the person to the 17 Dallas-Garland Mega Center, that would be considered a 18 form of public transportation that would lead to a 19 checking of the X in this column?</p> <p>20 A. Yes, sir.</p> <p>21 Q. Okay. How many -- and perhaps you don't know, 22 but do you know or does DPS know how many Texans live 23 in counties where the DPS office is not accessible via 24 public transportation?</p> <p>25 A. I don't know.</p>

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<p style="text-align: right;">201</p> <p>1 Q. Do you think it's a significant portion of the</p> <p>2 Texas population?</p> <p>3 A. Statewide?</p> <p>4 Q. Yes. Just doing the math based on this chart.</p> <p>5 MR. KEISTER: Objection, form. It calls</p> <p>6 for speculation and lack of a calculator.</p> <p>7 Q. (BY MR. DUNBAR) Well, if I told you the</p> <p>8 number was somewhere around 6 million, would that --</p> <p>9 would that seem out of bounds to you?</p> <p>10 A. 6 million that -- that population that had --</p> <p>11 Q. That live in counties without using the</p> <p>12 State's metric --</p> <p>13 A. Without.</p> <p>14 Q. -- "available public transportation" to get to</p> <p>15 a DPS office?</p> <p>16 A. Well, if you consider that there are roughly</p> <p>17 21 million driver license and ID card holders, it would</p> <p>18 be somewhat significant.</p> <p>19 Q. Okay. And for those folks that don't have</p> <p>20 access to available public transportation, as DPS is</p> <p>21 defining it for purposes of this chart, are there any</p> <p>22 forms of transportation assistance available to -- for</p> <p>23 an individual to get to the DPS office to secure -- to</p> <p>24 apply for an EIC or any information doc?</p> <p>25 A. Are you asking if DPS provides transportation</p>	<p style="text-align: right;">203</p> <p>1 Q. Aware of that.</p> <p>2 A. -- let me qualify the answer.</p> <p>3 Q. Sure.</p> <p>4 A. There was one and maybe two that requested or</p> <p>5 complained because they couldn't -- it was her mother,</p> <p>6 I think it was, that couldn't vote because we denied</p> <p>7 her an ID card and somehow it got twisted around to</p> <p>8 where she was in there applying for an EIC when in fact</p> <p>9 she was actually looking for an ID, and we did send</p> <p>10 homebound -- or CSR and did a homebound visit and got</p> <p>11 her the ID.</p> <p>12 Q. Okay. And is there a statute or regulation</p> <p>13 that requires DPS to offer this homebound service?</p> <p>14 A. No, sir.</p> <p>15 Q. And this homebound service is just for those</p> <p>16 with physical disabilities; is that correct?</p> <p>17 A. Well, whatever their disability is, each case</p> <p>18 is evaluated individually at the office level.</p> <p>19 Q. So if I lived in a county, just looking at</p> <p>20 this chart, say, Texarkana and did not have a car or</p> <p>21 the ability to get to a DPS office and that was my only</p> <p>22 constraint, could I apply -- could I successfully apply</p> <p>23 for the homebound service you described?</p> <p>24 A. You could.</p> <p>25 Q. Would I successfully apply -- would DPS grant</p>
<p style="text-align: right;">202</p> <p>1 for those people to get to a DL office?</p> <p>2 Q. Yes. Or any form of assistance designed to</p> <p>3 enable them.</p> <p>4 A. There is a method that we can enable them in</p> <p>5 certain circumstances.</p> <p>6 Q. And what are those circumstances?</p> <p>7 A. We call it homebound.</p> <p>8 Q. Homebound?</p> <p>9 A. Or if --</p> <p>10 Q. Can you describe that for me?</p> <p>11 A. -- if an individual for whatever reason is</p> <p>12 physically challenged and can't get to a driver license</p> <p>13 office and needs to do a driver license renewal or an</p> <p>14 ID card renewal, then depending on those circumstances</p> <p>15 we may dispatch a CSR to their home or their place of</p> <p>16 residence and process their renewal or the address</p> <p>17 change, whatever they're after.</p> <p>18 Q. And that service is also available for EICs?</p> <p>19 A. Yes, it would be.</p> <p>20 Q. And how many people have availed themselves of</p> <p>21 that opportunity to get -- to apply for an EIC?</p> <p>22 A. None that I'm aware of.</p> <p>23 Q. And I guess my question that's -- thank you</p> <p>24 for -- for telling me about that. I wasn't --</p> <p>25 A. Well, let me --</p>	<p style="text-align: right;">204</p> <p>1 that request?</p> <p>2 A. Generally, yes.</p> <p>3 Q. If someone --</p> <p>4 A. I mean -- go ahead.</p> <p>5 Q. I'm sorry. Please go ahead.</p> <p>6 A. If -- you know, depending on the circumstances</p> <p>7 if -- you know, we certainly don't have staff to do</p> <p>8 homebound visits for everyone that might apply. But if</p> <p>9 your circumstances were if you're elderly or infirm or</p> <p>10 whatever the case is that would prevent you --</p> <p>11 legitimately prevent you from coming into the office,</p> <p>12 then we would consider a homebound visit.</p> <p>13 Q. The circumstance in my question was I don't</p> <p>14 own a car and I live in a county without public</p> <p>15 transportation, could I successfully apply for a</p> <p>16 homebound service?</p> <p>17 A. Are there any other circumstances other than</p> <p>18 that you don't own a car?</p> <p>19 Q. No, I don't own a car.</p> <p>20 A. No, sir.</p> <p>21 Q. Okay is there a document or guideline written</p> <p>22 down somewhere that define the criteria for the</p> <p>23 homebound service?</p> <p>24 A. No, sir.</p> <p>25 Q. So this is just up to each individual DPS</p>

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<p style="text-align: right;">205</p> <p>1 office?</p> <p>2 A. To determine whether or not they're going to</p> <p>3 D.A. homebound visit.</p> <p>4 Q. With no directive or guidance from the central</p> <p>5 leadership of DPS?</p> <p>6 A. I'm not aware of any written directive or</p> <p>7 guidance along those lines.</p> <p>8 Q. Okay. Thank you.</p> <p>9 One last set of questions just on the</p> <p>10 location of DPS offices. And this -- it's on Tab 1.</p> <p>11 THE REPORTER: Exhibit 48.</p> <p>12 (Exhibit 48 marked.)</p> <p>13 Q. (BY MR. DUNBAR) And, Mr. Peters, have you</p> <p>14 seen this document before?</p> <p>15 A. I have. Well, I've seen it in a color form.</p> <p>16 Q. In a color form, sure. And was this -- this</p> <p>17 document shows -- references data from Texas State</p> <p>18 University, so was this document produced in connection</p> <p>19 with the mega center location analysis that you were</p> <p>20 talking about earlier?</p> <p>21 A. This was produced in connection not with the</p> <p>22 mega center locations but after the mega centers</p> <p>23 were -- were already under construction. And we were</p> <p>24 looking to see what the driver or an applicant would</p> <p>25 have to -- how far an applicant would have to drive to</p>	<p style="text-align: right;">207</p> <p>1 correct?</p> <p>2 A. Correct.</p> <p>3 Q. How were the distance metrics chosen; that is,</p> <p>4 25 miles and 50 miles?</p> <p>5 A. It was arbitrary, just pulled it out of the</p> <p>6 air.</p> <p>7 Q. So -- okay. So you pulled those numbers from</p> <p>8 the air. I guess was consideration given to the</p> <p>9 burdens that, say, someone living 23 miles from a DPS</p> <p>10 might have in getting to a DPS office?</p> <p>11 A. No.</p> <p>12 Q. And would you agree with me that if you chose,</p> <p>13 say, a radius of ten miles, this chart looks a lot</p> <p>14 different, particularly in its bright colorful form,</p> <p>15 doesn't it?</p> <p>16 A. It would.</p> <p>17 Q. And it would look like there's a lot less</p> <p>18 coverage in the state; is that correct?</p> <p>19 A. That's correct.</p> <p>20 Q. And your testimony, then, is that the 25-mile</p> <p>21 and the 50-mile distances were chosen arbitrarily; is</p> <p>22 that correct?</p> <p>23 A. Yes, sir.</p> <p>24 Q. And was there any -- has DPS, in connection</p> <p>25 with this particular chart or more generally, done any</p>
<p style="text-align: right;">206</p> <p>1 get to the office. We wanted to see what the level of</p> <p>2 coverage we had within a 25-mile radius of the existing</p> <p>3 driver license offices.</p> <p>4 Q. So did DPS itself prepare this document?</p> <p>5 A. Staff at DPS did based on information that</p> <p>6 they got from the government partnership program at</p> <p>7 Texas State University.</p> <p>8 Q. And what was the specific purpose of creating</p> <p>9 this document?</p> <p>10 A. To determine how many counties and how many</p> <p>11 people would not be served within a 25-mile radius of a</p> <p>12 driver license office.</p> <p>13 Q. For the purpose of figuring out where to</p> <p>14 locate new DPS offices or for the purpose of figuring</p> <p>15 out to where to send mobile EIC units.</p> <p>16 A. More the later, to figure out where we needed</p> <p>17 to put mobile EIC units.</p> <p>18 Q. Okay. And so the document I gave you has two</p> <p>19 sides. One, you'll see, says "Percentage of population</p> <p>20 within 25 miles of DL office," which I think you</p> <p>21 previously defined to be a driver's license office; is</p> <p>22 that correct?</p> <p>23 A. Yes, sir.</p> <p>24 Q. And the other chart shows the percentage of</p> <p>25 population within 50 miles of a DL office; is that</p>	<p style="text-align: right;">208</p> <p>1 analysis of the cost associated -- the cost or burdens</p> <p>2 associated with a Texas resident traveling some</p> <p>3 distance to use a DPS service?</p> <p>4 MR. KEISTER: Objection, vague.</p> <p>5 A. No.</p> <p>6 Q. (BY MR. DUNBAR) No studies have been done</p> <p>7 like that?</p> <p>8 A. Huh-uh.</p> <p>9 Q. I would now like to shift gears a little bit</p> <p>10 and ask a few questions about the effect of the EIC</p> <p>11 program on DPS' overall delivery of services, and this</p> <p>12 will be an area where I'll be jumping around even a bit</p> <p>13 more than I have been because we have covered some of</p> <p>14 this ground before.</p> <p>15 But just so I understand your -- I</p> <p>16 believe your prior testimony correctly, during the</p> <p>17 legislative debates leading up to the enactment of S.B.</p> <p>18 14, did anyone in the legislature reach out to DPS to</p> <p>19 solicit its views on the specific issue of having DPS</p> <p>20 be the agency that issues EICs?</p> <p>21 A. I'm not aware of it. But typically that</p> <p>22 happens and since we did prepare a bill analysis for</p> <p>23 internal use, that the -- there was some contact made.</p> <p>24 Q. And is this bill analysis you're referencing</p> <p>25 different from the fiscal note you previously</p>

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<p style="text-align: right;">209</p> <p>1 mentioned?</p> <p>2 A. That's correct.</p> <p>3 Q. And do you know if this bill analysis has been</p> <p>4 produced in this litigation?</p> <p>5 A. I don't.</p> <p>6 MR. DUNBAR: Does counsel for Texas know?</p> <p>7 MR. KEISTER: I don't know.</p> <p>8 Q. (BY MR. DUNBAR) Okay. And can you describe</p> <p>9 who -- so you've seen -- you weren't there when this</p> <p>10 bill analysis was produced, correct?</p> <p>11 A. Yes, sir.</p> <p>12 Q. But you've seen this document before?</p> <p>13 A. I have.</p> <p>14 Q. Can you describe what this document said?</p> <p>15 A. There are various questions that -- it's an</p> <p>16 internal document.</p> <p>17 Q. Uh-huh.</p> <p>18 A. And there are various questions that staff has</p> <p>19 to respond to with respect to the language that's in</p> <p>20 the legislation. You know, how is it going to affect</p> <p>21 our operation? What's it going to cost us? What IT</p> <p>22 implications are there? Questions such as that.</p> <p>23 Q. Were there any questions along the lines of</p> <p>24 whether it made sense to have a traditional law</p> <p>25 enforcement agency be tasked with the responsibility</p>	<p style="text-align: right;">211</p> <p>1 A. No. Well, we process 7 million transactions</p> <p>2 every year in the driver's license offices, and we've</p> <p>3 had 269 applications for EICs. It would be hard to</p> <p>4 believe that there was a significant impact on DL</p> <p>5 operations.</p> <p>6 Q. Right. And so I believe you testified earlier</p> <p>7 that or stated on the record earlier that you hadn't</p> <p>8 heard of anyone internally complaining about the EIC</p> <p>9 mandate at least to you; is that correct?</p> <p>10 A. That's correct.</p> <p>11 Q. I want to see -- excuse me. My notes are</p> <p>12 getting a little turned around here.</p> <p>13 MR. DUNBAR: Hasan, could I get the tab</p> <p>14 that the -- yes.</p> <p>15 THE REPORTER: Exhibit 49.</p> <p>16 (Exhibit 49 marked.)</p> <p>17 Q. (BY MR. DUNBAR) And, Mr. Peters, have you</p> <p>18 seen this e-mail before?</p> <p>19 A. I have.</p> <p>20 Q. And it appears to be an e-mail from a</p> <p>21 Robert Bodisch. Am I saying that name right?</p> <p>22 A. That's correct.</p> <p>23 Q. He is the Assistant Director, Chief of Staff,</p> <p>24 Texas Homeland Security; is that correct?</p> <p>25 A. Yes, sir.</p>
<p style="text-align: right;">210</p> <p>1 for issuing voter identification cards?</p> <p>2 A. No, sir, not that I've seen.</p> <p>3 Q. You've never seen any documents that raise</p> <p>4 those types of issues?</p> <p>5 A. No, sir.</p> <p>6 Q. And did DPS -- I believe in the fiscal note,</p> <p>7 but I just want to make sure I understand that this is</p> <p>8 exhaustive.</p> <p>9 Is the fiscal note the only attempt DPS</p> <p>10 did prior to S.B. 14's enactment to quantify the costs</p> <p>11 the EIC obligation might have on the agency?</p> <p>12 A. That's the only one I'm aware of.</p> <p>13 Q. Okay. And has DPS made any efforts to study</p> <p>14 or quantify the costs of EIC mandate since S.B. 14's</p> <p>15 enactment other than, I believe you referenced a</p> <p>16 document, that \$845,000 total --</p> <p>17 A. That's the.</p> <p>18 Q. -- is that correct?</p> <p>19 A. -- only one I'm aware of.</p> <p>20 Q. So purely in fiscal terms, but has there been</p> <p>21 any analysis that's been done to evaluate whether the</p> <p>22 EIC responsibility has interfered with DPS' ability to</p> <p>23 carry out any of it traditional statutory missions?</p> <p>24 A. There's not been an analysis done.</p> <p>25 Q. No type of analysis like that has been done?</p>	<p style="text-align: right;">212</p> <p>1 Q. And that's part of the Texas Department of</p> <p>2 Public Safety; is that correct?</p> <p>3 A. Correct.</p> <p>4 Q. And looking at the 9-23-2013 e-mail on which</p> <p>5 you're copied, is where I wanted to start.</p> <p>6 MR. DUNBAR: Well, and I note, I guess</p> <p>7 just to be fair, the bottom part of this e-mail is the</p> <p>8 one you have just suggested is subject to the clawback.</p> <p>9 MR. KEISTER: Okay.</p> <p>10 MR. DUNBAR: I don't want to talk about</p> <p>11 that e-mail. I want to talk about the top e-mail.</p> <p>12 MR. KEISTER: Okay.</p> <p>13 MR. DUNBAR: So I guess I want to make</p> <p>14 sure I don't --</p> <p>15 MR. KEISTER: To the extent I objected to</p> <p>16 the previous -- that part of the previous e-mail, I'll</p> <p>17 also make the objection on this, to that part of the</p> <p>18 e-mail and I'll also request to claw it back.</p> <p>19 MR. DUNBAR: Okay.</p> <p>20 MR. KEISTER: But I don't see any problem</p> <p>21 with the top part, do you?</p> <p>22 MR. DUNBAR: Okay. I guess for the</p> <p>23 clawback purposes for that, I guess we may need just a</p> <p>24 redacted version of the -- do we need to go off the</p> <p>25 record again?</p>

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<p style="text-align: right;">213</p> <p>1 MR. KEISTER: Yeah.</p> <p>2 MR. DUNBAR: Okay.</p> <p>3 THE REPORTER: Off the record.</p> <p>4 (Discussion off the record.)</p> <p>5 THE REPORTER: Back on the record.</p> <p>6 MR. KEISTER: I'm not sure where we were,</p> <p>7 but with respect to Exhibit 49, once again the bottom</p> <p>8 e-mail, which is from Joe Peters and dated July 3rd,</p> <p>9 2013, we believe that was inadvertently produced and is</p> <p>10 attorney/client, and we will be requesting for that to</p> <p>11 be clawed back.</p> <p>12 With respect to the top e-mail, which I</p> <p>13 think is what you want to talk about today, that part</p> <p>14 is fine.</p> <p>15 MR. DUNBAR: Okay. And to clear up for</p> <p>16 the record and the court reporter, would the best</p> <p>17 process be for Texas to produce a redacted copy of this</p> <p>18 exhibit for purposes of -- of this document or does the</p> <p>19 State have an objection to that approach?</p> <p>20 MR. KEISTER: No, I think that would be</p> <p>21 good. Assuming everybody agrees that it's subject to</p> <p>22 clawback, then I -- then we'll certainly do that.</p> <p>23 Ought to be easy enough. Or if you</p> <p>24 wanted to just redact it, would that be okay for her</p> <p>25 just to redact that part?</p>	<p style="text-align: right;">215</p> <p>1 internal grumbling about waste of tax dollars."</p> <p>2 Then he goes on to say, "We don't have</p> <p>3 the funds for what we are currently doing. Pulling all</p> <p>4 of the CSRs out of existing DL offices will severely</p> <p>5 degrade our DL mission."</p> <p>6 Did I read those parts of the e-mail</p> <p>7 correctly?</p> <p>8 A. Yes, you did.</p> <p>9 Q. Okay. And would you agree with the</p> <p>10 characterization that this seems to be a complaint by</p> <p>11 someone within DPS about assuming the EIC, about the</p> <p>12 costs associated with the EIC mission?</p> <p>13 A. I wouldn't characterize it as a complaint.</p> <p>14 What I would say is that it was an assessment from</p> <p>15 Mr. Bodisch's perspective of the potential effects on</p> <p>16 DPS or -- excuse me, driver license division.</p> <p>17 Q. Okay. And he specifically referenced a</p> <p>18 concern that at least in connection with the mobile EIC</p> <p>19 stations the resource constraints would, quote,</p> <p>20 "Severely degrade our DL mission"; is that correct?</p> <p>21 A. That's what it says. And we mitigated that by</p> <p>22 taking the CSRs out of the larger offices where we had</p> <p>23 more CSRs.</p> <p>24 Q. So in your --</p> <p>25 A. We didn't close an office down to do EIC or</p>
<p style="text-align: right;">214</p> <p>1 MR. FREEMAN: That would be fine for us --</p> <p>2 THE REPORTER: Everybody agree that I can</p> <p>3 do it?</p> <p>4 MR. DUNBAR: Yeah, we can do it.</p> <p>5 MR. BRAZIL: That would be fine.</p> <p>6 MR. KEISTER: That would be a lot less</p> <p>7 confusing and that was on 49 and also on --</p> <p>8 THE REPORTER: I'm going off the record</p> <p>9 because I can't write and talk at the same time.</p> <p>10 (Discussion off the record.)</p> <p>11 THE REPORTER: Back on the record.</p> <p>12 MR. DUNBAR: Back on the record.</p> <p>13 Q. (BY MR. DUNBAR) Okay. So talking about</p> <p>14 the -- I believe we were talking about the top e-mail</p> <p>15 from Mr. Bodisch to -- well, to himself, apparently,</p> <p>16 and to MacGregor Stevenson with you copied; is that</p> <p>17 correct, Mr. Peters?</p> <p>18 A. Yes, sir.</p> <p>19 Q. Who is Stevenson MacGregor?</p> <p>20 A. MacGregor Stevenson is with the office of the</p> <p>21 governor.</p> <p>22 Q. And looking at the e-mail, the e-mail says,</p> <p>23 "What you may not understand is that we are currently</p> <p>24 pulling trained customer service representatives out of</p> <p>25 busy DL offices to fill the 25 mobile teams. Lots of</p>	<p style="text-align: right;">216</p> <p>1 the mobiles.</p> <p>2 Q. So Mr. Bodisch is concerned that the EIC</p> <p>3 mandate would severely degrade the DL mission turned</p> <p>4 out to be incorrect. Is that your testimony?</p> <p>5 A. I would say it was not totally accurate based</p> <p>6 on our experience. You know, when this was written in</p> <p>7 September there was still that potential. We were</p> <p>8 coming up on November election and we had -- we didn't</p> <p>9 have any idea what to expect.</p> <p>10 Q. And are there others within DPS still who have</p> <p>11 concerns that the EIC mission could interfere with the,</p> <p>12 quote/unquote, "DL mission"?</p> <p>13 A. Based on our experience since June 26th, I</p> <p>14 think those fears have been allayed.</p> <p>15 Q. And what is the experience since June 26th,</p> <p>16 you simply mean the rollout of the various mobile EIC</p> <p>17 units and the DPS offices handling EIC applications?</p> <p>18 A. One is the volume of applicants that have</p> <p>19 applied for volume of people that have applied for</p> <p>20 EICs.</p> <p>21 Two is that we were over the hump of</p> <p>22 where we had to buy equipment, which was a significant</p> <p>23 expense. You know the equipment is already out there.</p> <p>24 We don't have to worry about that anymore.</p> <p>25 Three is that we have, I think, 52</p>

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<p style="text-align: right;">217</p> <p>1 counties that are now providing EIC services with their</p> <p>2 staff which means that DPS does not have to furnish</p> <p>3 staff for those mobile sites any longer.</p> <p>4 Q. Uh-huh. And is there any -- I believe your</p> <p>5 testimony was before there is no specific line item in</p> <p>6 DPS's appropriation -- or in the transportation budget</p> <p>7 generally for EIC unit; is that correct?</p> <p>8 A. That's correct.</p> <p>9 Q. So if there were unexpected needs in some of</p> <p>10 the other, quote/unquote, "DL mission," you would face</p> <p>11 resource constraints just like any agency; is that</p> <p>12 correct?</p> <p>13 A. Yes, sir.</p> <p>14 Q. And is it fair to say that DPS's core mission</p> <p>15 prior to the enactment of S.B. 14 was a law enforcement</p> <p>16 mission?</p> <p>17 A. Yes, sir. Well, actually the driver license</p> <p>18 mission is -- is almost as large as the law enforcement</p> <p>19 mission.</p> <p>20 Q. Right. And you testified, I think, about your</p> <p>21 background is in law enforcement; is that correct?</p> <p>22 A. Correct.</p> <p>23 Q. So you were chosen for this position at the</p> <p>24 head of the DL division largely on the strength of your</p> <p>25 law enforcement credentials; is that correct?</p>	<p style="text-align: right;">219</p> <p>1 made sense to impose this new EIC obligation on DPS for</p> <p>2 that reason?</p> <p>3 A. Yes, sir. We could not argue against it.</p> <p>4 Q. I would like to talk about a new exhibit.</p> <p>5 MR. DUNBAR: Hasan, give me Exhibit 9,</p> <p>6 please. I'm sorry tab for the record, that's tab in</p> <p>7 our folder, not Exhibit 9.</p> <p>8 (Exhibit 50 marked.)</p> <p>9 Q. (BY MR. DUNBAR) Mr. Peters, have you seen</p> <p>10 this e-mail exchange before?</p> <p>11 A. Whoops. Yes, sir.</p> <p>12 Q. And I want to turn your attention to, I guess,</p> <p>13 the last e-mail which is the September 10th, 2013,</p> <p>14 e-mail from a Robert Herd?</p> <p>15 A. Wait a minute. The last e-mail? In the</p> <p>16 string or the first e-mail in the string?</p> <p>17 Q. Sorry, yeah, the first e-mail in the string.</p> <p>18 Last on the -- last physically.</p> <p>19 A. Okay.</p> <p>20 Q. But first e-mail on the string. Good point.</p> <p>21 A. That's the September 10, 2013 at 12:12.</p> <p>22 Q. That's right.</p> <p>23 A. Got you.</p> <p>24 Q. And that's an e-mail from a Mr. Herd to a</p> <p>25 Tracie Henson and Shaya Birch; is that correct?</p>
<p style="text-align: right;">218</p> <p>1 A. I don't think it was so much on the basis of</p> <p>2 my law enforcement experience. It was management</p> <p>3 experience that I had with when I was working for the</p> <p>4 Sheriff's Association under the DOJ grant and as a</p> <p>5 highway patrol sergeant, as a Ranger sergeant.</p> <p>6 Q. Right. And I believe you said that, perhaps</p> <p>7 in jest, that it was debatable whether you had</p> <p>8 expertise in EIC implementation?</p> <p>9 A. That's correct.</p> <p>10 Q. And I guess my question is, in, again, not</p> <p>11 your personal opinion but in your capacity as</p> <p>12 representative of DPS, does it make sense for DPS</p> <p>13 rather than, say, the Secretary of State or some other</p> <p>14 agency to have assumed a function so closely related to</p> <p>15 elections?</p> <p>16 A. In terms of the resources available to DPS it</p> <p>17 made sense for DPS to do that.</p> <p>18 Q. Because DPS had a lot of extra resources?</p> <p>19 A. Well, no, not that they had a lot of extra</p> <p>20 resources, that we had resources -- we had 227 driver's</p> <p>21 licenses offices out there and 18- or 1,900 CSRs that</p> <p>22 could issue driver's licenses, EICs and ID cards.</p> <p>23 Q. So it makes sense in your view that there was</p> <p>24 a basic convenience factor that the apparatus to issue</p> <p>25 driver licenses was spread across the State, and it</p>	<p style="text-align: right;">220</p> <p>1 A. Yes, sir.</p> <p>2 Q. Do you know who Mr. Herd is?</p> <p>3 A. I believe he is the Dallas County voter</p> <p>4 registrar.</p> <p>5 Q. Yeah, the bottom of the e-mail references the</p> <p>6 Dallas County Elections Department Administrator.</p> <p>7 A. Yeah.</p> <p>8 Q. You're exactly right. I don't know if that's</p> <p>9 his position today, but at least at the time and then</p> <p>10 who are Tracy Henson and Shaya Birch?</p> <p>11 A. I don't know.</p> <p>12 Q. Okay. And looking at the e-mail, it appears</p> <p>13 to be a request for assistance from DPS to deploy</p> <p>14 mobile EIC units at various events. Is that an</p> <p>15 accurate --</p> <p>16 A. Yes, sir.</p> <p>17 Q. -- summary of the e-mail?</p> <p>18 A. Yes, sir.</p> <p>19 Q. And then there's a series of forwards of the</p> <p>20 e-mail from -- the one I want to turn to, I guess, is</p> <p>21 on September 10th, 2013, at 19:21, a JoAnn Mastrachio</p> <p>22 says, "Tony, I'm handing this one off to the EIC guru."</p> <p>23 Do you see that?</p> <p>24 A. At 19:21? Yes, I see that.</p> <p>25 Q. And is it your understanding in this e-mail</p>

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<p style="text-align: right;">221</p> <p>1 the EIC guru is a reference to Mr. Rodriguez?</p> <p>2 A. That's correct.</p> <p>3 Q. Okay. And then Mr. Rodriguez turns around and</p> <p>4 sends the e-mail chain on Tuesday, September 10th at</p> <p>5 2:13 to Mr. Watkins, who I believe you testified is one</p> <p>6 your deputies?</p> <p>7 A. Yes.</p> <p>8 Q. And yourself --</p> <p>9 A. Yes.</p> <p>10 Q. -- is that correct?</p> <p>11 And what are the first two words of his</p> <p>12 e-mail?</p> <p>13 A. "Mission creep."</p> <p>14 Q. And what did you understand Mr. Rodriguez to</p> <p>15 mean by "mission creep" when you saw this e-mail?</p> <p>16 A. That the mission was expanding.</p> <p>17 Q. And in what way was the mission expanding?</p> <p>18 A. By deploying the mobilizations.</p> <p>19 Q. And would you agree with me that "mission</p> <p>20 creep" carries a negative connotation?</p> <p>21 A. It could.</p> <p>22 Q. Did you understand it to be that?</p> <p>23 A. I can't say that I did. I mean --</p> <p>24 Q. You don't recall --</p> <p>25 A. It was a --</p>	<p style="text-align: right;">223</p> <p>1 what we initially assessed.</p> <p>2 Q. But I thought you just testified that you</p> <p>3 understand mission creep to carry a negative</p> <p>4 connotation.</p> <p>5 A. It could.</p> <p>6 MR. KEISTER: Y'all are killing the court</p> <p>7 reporter.</p> <p>8 Q. (BY MR. DUNBAR) Okay. What was the ultimate</p> <p>9 resolution of Dallas County's request?</p> <p>10 A. We sent mobile units to Dallas County.</p> <p>11 Q. So Dallas County won over Mr. Rodriguez's</p> <p>12 objections?</p> <p>13 A. Yes.</p> <p>14 Q. And do you know who ultimately made that</p> <p>15 decision? Was that your decision?</p> <p>16 A. Well, I was probably involved in that decision</p> <p>17 that we were going to do it; but it was, you know, at</p> <p>18 the request of and guidance from the Secretary of</p> <p>19 State's office.</p> <p>20 Q. And have you heard other -- have there been</p> <p>21 other references to mission creep in connection with</p> <p>22 the EIC units during your tenure at DPS?</p> <p>23 A. No.</p> <p>24 Q. This was the only one?</p> <p>25 A. And I didn't even remember that one. It just</p>
<p style="text-align: right;">222</p> <p>1 Q. -- whether you understood --</p> <p>2 A. -- a fact, you know, that we -- we had these</p> <p>3 requests and we -- we were going to do the best we</p> <p>4 could to comply.</p> <p>5 Q. So you -- so your testimony is that you</p> <p>6 understand Mr. Rodriguez's e-mail to reflect that it</p> <p>7 was a negative development that a county was asking for</p> <p>8 expanded mobile EIC access; is that correct?</p> <p>9 A. Well, yes. And I understand that</p> <p>10 Mr. Rodriguez is -- has an extensive military</p> <p>11 background and is -- currently serves as a</p> <p>12 major-general in the state guard, so he is familiar</p> <p>13 with many missions of all types. And I'm sure that's a</p> <p>14 common reference that the military uses. It was when I</p> <p>15 was there.</p> <p>16 Q. Understood. But I guess for clarity, I just</p> <p>17 mean that it carries a negative connotation.</p> <p>18 A mission creep is not a good thing; is</p> <p>19 that correct?</p> <p>20 A. It could -- it could, yes.</p> <p>21 Q. Why would Mr. Rodriguez have represented the</p> <p>22 request as mission creep in your view?</p> <p>23 A. I think it -- rather than a negative</p> <p>24 connotation, it was that we need to expand, you know,</p> <p>25 the mission is broader or about to become broader than</p>	<p style="text-align: right;">224</p> <p>1 didn't stick out in my mind.</p> <p>2 Q. Fair enough. So I know we've had a lot of</p> <p>3 questions about mobile EIC stations. I want to really</p> <p>4 just ask some basic clarifications.</p> <p>5 I understand there have been three phases</p> <p>6 of the mobile EIC program; is that correct?</p> <p>7 A. Yeah. It depends on who you talk to and what</p> <p>8 their understanding of a phase is, but go ahead.</p> <p>9 Q. But to be clear, this comes from Mr. Ingram's</p> <p>10 deposition --</p> <p>11 A. Yes.</p> <p>12 Q. -- where there clearly were phases delineated</p> <p>13 and this was the first time -- maybe it was my own</p> <p>14 fault -- that I had heard of these phases. So I want</p> <p>15 to make sure I understand them correctly.</p> <p>16 What would Phase 1 of the EIC program be</p> <p>17 in your view?</p> <p>18 A. Phase 1 would have been -- if I remember</p> <p>19 correctly, it was the Secretary of State's 25 mobile</p> <p>20 stations and their assignments.</p> <p>21 Q. So Phase 1 is the 25?</p> <p>22 A. That's my understanding.</p> <p>23 Q. Okay. I may have misunderstood. I thought</p> <p>24 that was the Phase 2.</p> <p>25 A. Well, I've tried not to refer to them as</p>

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<p style="text-align: right;">225</p> <p>1 phases because it's too confusing. If I just said</p> <p>2 Phase 1 or Phase 2 or Phase 3, nobody knows what we're</p> <p>3 talking about. But if I say Secretary of State's</p> <p>4 mobile deployment, everybody knows what we're talking</p> <p>5 about.</p> <p>6 Q. You should pass that along to Mr. Ingram.</p> <p>7 A. I will.</p> <p>8 Q. For all of our sakes.</p> <p>9 Okay. So I will sometimes use the</p> <p>10 nomenclature, just to help understand what he might</p> <p>11 have been referring to but also ask: The Phase 1 in</p> <p>12 your view, to the extent there was a Phase 1, is the</p> <p>13 25 -- the 25 Secretary of State mobile EIC units; is</p> <p>14 that correct?</p> <p>15 A. As I recall, yes, sir.</p> <p>16 Q. And who made -- this is the Secretary of</p> <p>17 State's initiative. Was it the Secretary of State's</p> <p>18 idea to launch the 25 mobile EIC units?</p> <p>19 A. It was a collective decision to launch those</p> <p>20 25 units and -- because the Secretary of State offered</p> <p>21 to purchase those units. Initially, the Secretary of</p> <p>22 State offered to provide funding to DPS to buy those</p> <p>23 units. Then it was determined that they couldn't</p> <p>24 provide DPS the funding; that they had to pay for them</p> <p>25 themselves, and they had to own them. And that's when</p>	<p style="text-align: right;">227</p> <p>1 that you're talking about.</p> <p>2 Q. (BY MR. DUNBAR) But who made that ultimate</p> <p>3 determination?</p> <p>4 A. I can't pinpoint any single individual that</p> <p>5 made that decision.</p> <p>6 Q. So sitting here today, DPS has no view on who</p> <p>7 came up with or ultimately decided on the Phase 1 of</p> <p>8 the mobile EIC initiative?</p> <p>9 A. No, sir.</p> <p>10 Q. Okay. And so Phase 1 or the 25 mobile</p> <p>11 stations, that -- that program is ongoing; is that</p> <p>12 correct?</p> <p>13 A. That's correct.</p> <p>14 Q. And is there a permanent appropriation for</p> <p>15 those funds?</p> <p>16 A. No, sir.</p> <p>17 Q. So that program, like the entire EIC program,</p> <p>18 is subject to the discretion of either the Secretary of</p> <p>19 State or the Department of Public Safety; is that</p> <p>20 correct?</p> <p>21 A. Correct.</p> <p>22 Q. And so Phase 3 of mobile EICs, at least the</p> <p>23 Secretary of State's office would describe, it refers</p> <p>24 to the county-led initiatives.</p> <p>25 Is that your understanding?</p>
<p style="text-align: right;">226</p> <p>1 they became the Secretary of State's property. And</p> <p>2 they made those purchases based on specifications</p> <p>3 recommended by DPS.</p> <p>4 Q. I see. And when you say this was a collective</p> <p>5 decision, though, I want to make sure I understand the</p> <p>6 universe of the collective decision making here.</p> <p>7 Was this DPS and the Secretary of State's</p> <p>8 office only?</p> <p>9 A. No.</p> <p>10 Q. Who else was involved?</p> <p>11 A. Governor staff was involved. The Secretary of</p> <p>12 State staff, DPS staff.</p> <p>13 Q. Where did the idea initiate from for mobile</p> <p>14 EICs?</p> <p>15 MR. KEISTER: To the extent this is going</p> <p>16 to require you to state any of the deliberative process</p> <p>17 that occurred in making this decision and to the extent</p> <p>18 it's going to require you to give any attorney/client</p> <p>19 information, I'm going to instruct you not to answer</p> <p>20 those questions. You can give the ultimate decision as</p> <p>21 to what was done, but don't give the background</p> <p>22 deliberations.</p> <p>23 THE WITNESS: Okay. The ultimate</p> <p>24 decision was that the Secretary of State would purchase</p> <p>25 and own those mobile stations, the 25 mobile stations</p>	<p style="text-align: right;">228</p> <p>1 A. Yes, sir.</p> <p>2 Q. Okay. And you've testified a lot about that</p> <p>3 already, I believe; so I don't want to spend a lot of</p> <p>4 time other than to understand Phase 3 is a DPS-led</p> <p>5 initiative?</p> <p>6 A. Yes, sir.</p> <p>7 Q. And who came up with the idea for the Phase 3</p> <p>8 initiative?</p> <p>9 A. Again, I can't pinpoint an individual.</p> <p>10 Q. Was it someone within DPS?</p> <p>11 A. Well, again, it was in collaboration with the</p> <p>12 Secretary of State as to how we were going to achieve</p> <p>13 coverage in all 254 counties.</p> <p>14 Q. Was DPS directed by any other agency in the</p> <p>15 state to carry out Phase 3?</p> <p>16 A. Not that I'm aware of. But there was</p> <p>17 encouragement to explore that.</p> <p>18 Q. But the ultimate decision -- your</p> <p>19 understanding is that the ultimate decision to say yea</p> <p>20 or nay to Phase 3 rested with who?</p> <p>21 A. DPS.</p> <p>22 Q. The head of DPS or the commission?</p> <p>23 A. Ultimately based on recommendations from</p> <p>24 staff.</p> <p>25 Q. Which among those two? Who would have the</p>

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<p style="text-align: right;">245</p> <p>1 A. I don't know.</p> <p>2 Q. You don't know?</p> <p>3 A. I haven't gone through the training.</p> <p>4 Q. Do you know who might know that?</p> <p>5 A. Any of the training division would know.</p> <p>6 Q. Is there a head of the training division?</p> <p>7 A. Yeah. It -- the -- JoAnna Straphio (phonetic)</p> <p>8 is the deputy assistant director for training.</p> <p>9 Q. Uh-huh.</p> <p>10 A. Lynn Hale is one of the trainers here in</p> <p>11 Austin that trains the trainers.</p> <p>12 Q. Okay. So with regards to the customer service</p> <p>13 representatives, does DPS require them to have attained</p> <p>14 a certain level of education in order to be employed?</p> <p>15 A. No.</p> <p>16 Q. How many of the customer service</p> <p>17 representatives are fluent in Spanish?</p> <p>18 A. I don't know that.</p> <p>19 Q. Is there a requirement that offices have a</p> <p>20 minimum number of Spanish speakers?</p> <p>21 A. No.</p> <p>22 Q. Okay.</p> <p>23 (Exhibit No. 51 marked.)</p> <p>24 Q. (BY MS. CLARK) So you can you tell me on what</p> <p>25 date DPS began issuing EICs?</p>	<p style="text-align: right;">247</p> <p>1 A. The driver license employees, the customer</p> <p>2 service representatives.</p> <p>3 Q. And they were trained in 2012?</p> <p>4 A. They were trained in 2011, initially.</p> <p>5 Q. And were they trained again in 2012?</p> <p>6 A. They received -- some of them received</p> <p>7 refresher training in 2012 or '13. 2013, I believe.</p> <p>8 Q. So is this e-mail talking about the 2013</p> <p>9 refresher training to which you're referring?</p> <p>10 A. Uh-huh.</p> <p>11 Q. Okay.</p> <p>12 MR. KEISTER: You have to say yes.</p> <p>13 THE WITNESS: I'm sorry. Yes. Sorry.</p> <p>14 Q. (BY MS. CLARK) So do you know which employees</p> <p>15 in particular were required to attend this WebEx</p> <p>16 refresher training?</p> <p>17 A. No.</p> <p>18 Q. You don't.</p> <p>19 Do you -- was there a record that was</p> <p>20 kept of which employees attended the training?</p> <p>21 A. Yes.</p> <p>22 Q. So would that be -- what form does that record</p> <p>23 take?</p> <p>24 A. If -- on the webinar, the WebEx webinar, I'm</p> <p>25 not sure how that was tracked. The other training,</p>
<p style="text-align: right;">246</p> <p>1 A. June 26th, 2013.</p> <p>2 Q. Okay. And this document that's just been</p> <p>3 marked as an exhibit, this is an e-mail dated</p> <p>4 June 21st, 2013, correct?</p> <p>5 A. Yes.</p> <p>6 Q. And although it doesn't have a subject, it</p> <p>7 attaches something that's called 32 Job Aid Election</p> <p>8 Certificate, and 32 Tax Election Certificate, correct?</p> <p>9 A. Uh-huh.</p> <p>10 THE REPORTER: Yes?</p> <p>11 THE WITNESS: Yes.</p> <p>12 Q. (BY MS. CLARK) If I can draw your attention</p> <p>13 to the e-mail at the top of the page. On the second</p> <p>14 line where it says, "because of this possibility, we</p> <p>15 are holding a WebEx refresher training at 4:00 p.m.</p> <p>16 today."</p> <p>17 Was WebEx refresher training held in</p> <p>18 anticipation of EICs being issued?</p> <p>19 A. That's my understanding.</p> <p>20 Q. Okay. Do you know whether all EIC employees</p> <p>21 were trained on -- I mean, whether all DPS employees</p> <p>22 were trained on the issuance of EICs prior to 2013?</p> <p>23 A. All DPS employees were not trained.</p> <p>24 Q. Do you know whether all -- which DPS employees</p> <p>25 would have been trained?</p>	<p style="text-align: right;">248</p> <p>1 there's a sign-in sheet where everyone comes in and</p> <p>2 places their signature on a spreadsheet that certifies</p> <p>3 that they were there for that training.</p> <p>4 Q. What is the "other training"?</p> <p>5 A. What do you mean "other training"?</p> <p>6 Q. You just said that you know for the other</p> <p>7 training?</p> <p>8 A. For in-person training.</p> <p>9 Q. I see.</p> <p>10 A. If they came in to -- to greet and to meet</p> <p>11 with a facilitator and they had one-on-one or</p> <p>12 one-on-many rather than a webinar, that's the other</p> <p>13 training I was referring to.</p> <p>14 Q. So was the 2011 original training an in-person</p> <p>15 training?</p> <p>16 A. I believe it was.</p> <p>17 Q. And so there would be a document that was --</p> <p>18 that would be something like a sign-in sheet that would</p> <p>19 reflect who had attended that training?</p> <p>20 A. There should be, yes, ma'am.</p> <p>21 Q. Do you know whether that document was produced</p> <p>22 as part of this litigation?</p> <p>23 A. I don't know.</p> <p>24 MS. CLARK: Do you know whether that</p> <p>25 happened?</p>

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<p style="text-align: right;">253</p> <p>1 What are the -- is there a list of</p> <p>2 documents that meet the department's identification</p> <p>3 policy on which employees are trained?</p> <p>4 A. Yes.</p> <p>5 Q. Is that part of the training that employees</p> <p>6 received for issuing EICs?</p> <p>7 A. Yes. And I can't tell you where it is, but it</p> <p>8 was in the packet -- the packet that I reviewed was an</p> <p>9 inch thick.</p> <p>10 Q. Uh-huh.</p> <p>11 A. So either the fonts are smaller here or</p> <p>12 there's a lot more information than what I reviewed.</p> <p>13 Q. Okay. So is there a different list for which</p> <p>14 identification documents are accepted when applying for</p> <p>15 an EIC and which are accepted when applying for a</p> <p>16 driver's license?</p> <p>17 A. The question again, please?</p> <p>18 Q. Are there two -- is the list of acceptable</p> <p>19 documents when applying for a driver's license the same</p> <p>20 as the list of acceptable documents as when applying</p> <p>21 for an EIC?</p> <p>22 A. I believe the only difference would be lawful</p> <p>23 presence of citizenship. I'm not sure.</p> <p>24 Q. You're not sure?</p> <p>25 A. No.</p>	<p style="text-align: right;">255</p> <p>1 Q. Okay. So if the training was in June of 2013</p> <p>2 and the policy changed in September of 2013, at what</p> <p>3 point were employees retrained on the new procedures?</p> <p>4 A. If I remember correctly, there was no formal</p> <p>5 training that we would not collect fingerprints or</p> <p>6 thumb prints. It was memos from the senior management</p> <p>7 to each of the regional office and then passed to the</p> <p>8 facilitators and to staff, the CSRs.</p> <p>9 Q. So who was responsible, ultimately, for</p> <p>10 getting the change in policy to the CSRs?</p> <p>11 A. The regional managers, as it came from</p> <p>12 headquarters through our senior managers.</p> <p>13 Q. Okay. So can you be assured that that policy</p> <p>14 was communicated to all CSRs?</p> <p>15 A. I was. I mean, I didn't see it happen; but</p> <p>16 that's what the senior managers were instructed to do.</p> <p>17 Q. But there was no retraining at that point?</p> <p>18 A. No formal retraining at that point that I'm</p> <p>19 aware of.</p> <p>20 Q. Okay. If you could go to Page 4. And towards</p> <p>21 the top of the page where "prior to issuance of an</p> <p>22 election certificate," under No. 1, towards the bottom.</p> <p>23 It says, "Do not issue an election certificate if a</p> <p>24 matching record is found under the following</p> <p>25 circumstances: DLS indicates the person is ineligible,</p>
<p style="text-align: right;">254</p> <p>1 Q. So -- but were employees trained on whether</p> <p>2 there are any difference in the identification</p> <p>3 documents accepted for EICs as opposed to driver's</p> <p>4 licenses?</p> <p>5 A. I don't know. I wasn't there doing the</p> <p>6 training.</p> <p>7 Q. Okay. So on the -- if you can turn to the top</p> <p>8 of Page 3 where it says that the procedures for issuing</p> <p>9 an election certificate are very similar to those used</p> <p>10 to issue a driver's license or identification card.</p> <p>11 A. Similar.</p> <p>12 Q. Yes. And then it says, "Similarities</p> <p>13 include." And if you go down to the third bullet</p> <p>14 point, it says, "Collecting images, photos, thumb</p> <p>15 prints, and signature," correct?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. So at the time of this training, which</p> <p>18 took place on June 24th, 2013, the policy of DPS was to</p> <p>19 collect thumb prints when applying for EICs, correct?</p> <p>20 A. Correct.</p> <p>21 Q. At what point did that policy -- did that</p> <p>22 policy change?</p> <p>23 A. The policy itself? Well, yes. I can say that</p> <p>24 it changed, and that was in probably the end of</p> <p>25 September of '13.</p>	<p style="text-align: right;">256</p> <p>1 i.e., suspended, revoked, cancelled, or denied, if the</p> <p>2 person maintains the card in their possession."</p> <p>3 Can you explain what that means?</p> <p>4 A. What that means is if the person still has</p> <p>5 their ID or their driver's license in their possession,</p> <p>6 even though it's revoked, they can still use it for</p> <p>7 identification purposes. But their driving privileges</p> <p>8 are revoked, and they can't use it to drive.</p> <p>9 Q. So when you say they could still use it for</p> <p>10 identification purposes, they could still use it to</p> <p>11 vote?</p> <p>12 A. Yes.</p> <p>13 Q. So they would be ineligible to receive an</p> <p>14 election certificate if they had a suspended license?</p> <p>15 A. If they had a suspended license. If they</p> <p>16 wanted the EIC, they could sign an affidavit</p> <p>17 surrendering their license; and then we could issue</p> <p>18 them an EIC.</p> <p>19 Q. So in order to get an EIC, somebody with a</p> <p>20 suspended license would have to physically return their</p> <p>21 license to you?</p> <p>22 A. No.</p> <p>23 Q. No. What does "surrender" mean?</p> <p>24 A. If they lost the driver's license or if it</p> <p>25 was -- well, surrender means they would give it up.</p>

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<p style="text-align: right;">261</p> <p>1 what they might accept it for.</p> <p>2 Q. So if someone wanted to hold on to their</p> <p>3 expired driver license for some other reason but also</p> <p>4 wanted an EIC because they needed it to vote, would</p> <p>5 they be able to hold on to their driver license?</p> <p>6 A. I think they would.</p> <p>7 Q. So it isn't -- what you testified before was</p> <p>8 not correct, that they would have to surrender it?</p> <p>9 A. If -- if they're going to surrender their</p> <p>10 driving privileges and the card is not expired, then</p> <p>11 they would have to surrender it.</p> <p>12 Q. I'm sorry. The card is expired because it's</p> <p>13 no longer valid. The card is expired.</p> <p>14 A. Uh-huh.</p> <p>15 Q. They do not have the money to renew the card</p> <p>16 but they want to hold on to it because they use it for</p> <p>17 ID and other parts of their life, but it's no longer --</p> <p>18 A. Even if it's expired?</p> <p>19 Q. Yes.</p> <p>20 A. Okay.</p> <p>21 Q. But it's no longer valid for voting under</p> <p>22 Texas' photo ID law, would they be allowed to get an</p> <p>23 EIC without returning their license to you?</p> <p>24 A. I don't know the answer to that question.</p> <p>25 Q. Do you know who would know the answer to that?</p>	<p style="text-align: right;">263</p> <p>1 Q. Is there anything in this training that says</p> <p>2 that that would be considered on an individual basis?</p> <p>3 A. No.</p> <p>4 Q. So how would individual employees have that</p> <p>5 information?</p> <p>6 A. That's -- when they get the request, the</p> <p>7 regional manager or the office manager makes that</p> <p>8 decision.</p> <p>9 Q. How would they know to elevate it?</p> <p>10 A. How would who know to elevate?</p> <p>11 Q. How would a CSR know if the stated policy is</p> <p>12 that EICs are not issued to home-bound applicants?</p> <p>13 A. The CSR doesn't make the decision on a</p> <p>14 home-bound visit. Supervisors make those decisions and</p> <p>15 then make the assignment.</p> <p>16 Q. Okay. If you could turn to the -- or go to</p> <p>17 the bottom of this page. Question No. 13, "Will</p> <p>18 renewal notices for an election certificate be sent to</p> <p>19 card holders?"</p> <p>20 And is it DPS' policy that renewal</p> <p>21 notices for an election certificate are not sent to EIC</p> <p>22 holders?</p> <p>23 A. I don't know the answer to the question. We</p> <p>24 haven't -- we're not that far along in the process. I</p> <p>25 know what -- what the training document says.</p>
<p style="text-align: right;">262</p> <p>1 A. Probably license of record service that does</p> <p>2 the quality assurance would be the best people.</p> <p>3 Q. Is there someone in particular there?</p> <p>4 A. Morgan Spinx.</p> <p>5 Q. To your knowledge, is there any statutory</p> <p>6 reason for this policy about surrendering your driver's</p> <p>7 license when you're getting an EIC?</p> <p>8 A. I'm not aware of it.</p> <p>9 Q. And are there regulations that require DPS to</p> <p>10 do that?</p> <p>11 A. I believe there are. I don't know what they</p> <p>12 are specifically.</p> <p>13 Q. Okay. So if you could turn to the next page,</p> <p>14 Page 5, item No. 6 at the top. That reads, "Will we</p> <p>15 issue election certificates to home-bound applicants?"</p> <p>16 A. Uh-huh.</p> <p>17 Q. The answer to that is no. Is that -- so DPS</p> <p>18 employees are trained not to issue EICs to home-bound</p> <p>19 applicants; is that correct?</p> <p>20 A. That's correct under these circumstances.</p> <p>21 Q. What are the particular circumstances?</p> <p>22 A. If a person is home bound, they could be</p> <p>23 voting by mail; and an EIC would not be required. If</p> <p>24 they insist on a voter ID, then we will consider their</p> <p>25 case on an individual basis and do a home-bound visit.</p>	<p style="text-align: right;">264</p> <p>1 Q. Is there anything that says something</p> <p>2 different from this training document?</p> <p>3 A. Not that I'm aware of.</p> <p>4 Q. Are renewal notices sent to individuals with</p> <p>5 driver licenses?</p> <p>6 A. Yes.</p> <p>7 Q. Are renewal notices sent to individuals with</p> <p>8 photo identification?</p> <p>9 A. I believe they are.</p> <p>10 Q. What is the reason for the difference in</p> <p>11 policy?</p> <p>12 A. I don't know.</p> <p>13 Q. Is there a reason?</p> <p>14 A. I don't know.</p> <p>15 Q. Would you agree that this makes it more</p> <p>16 difficult for someone with an EIC to renew than someone</p> <p>17 with a driver license because they are not informed of</p> <p>18 its expiration?</p> <p>19 A. I don't know why it would make it more</p> <p>20 difficult. The requirements for renewal would be the</p> <p>21 same whether they get notified or not.</p> <p>22 Q. So why are individuals with driver licenses</p> <p>23 notified, because it's a convenience to them?</p> <p>24 A. Well, yeah.</p> <p>25 Q. Okay. Can you turn to Page 7, please? This</p>

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<p style="text-align: right;">269</p> <p>1 had made numerous contacts with the counties and had</p> <p>2 some idea who had indicated an interest at that point</p> <p>3 in participating.</p> <p>4 Q. So on the letter that you attached to this</p> <p>5 e-mail in the second half of the page, it outlines DPS</p> <p>6 responsibilities and county responsibilities, correct?</p> <p>7 A. Yes.</p> <p>8 Q. Do you believe this is an accurate</p> <p>9 representation of the division of responsibilities</p> <p>10 between DPS and the county?</p> <p>11 A. Yes, I do.</p> <p>12 Q. So was either DPS or the county responsible</p> <p>13 for publicizing the times and locations of the mobile</p> <p>14 units?</p> <p>15 A. Yes.</p> <p>16 Q. Who was responsible?</p> <p>17 A. DPS.</p> <p>18 Q. Does that appear in the DPS responsibilities?</p> <p>19 A. I don't recall that it's in this particular</p> <p>20 document.</p> <p>21 Q. But it's your testimony that DPS was</p> <p>22 responsible for publicizing the times and locations of</p> <p>23 the mobile EIC units?</p> <p>24 A. Yes, except for those counties that were doing</p> <p>25 it five days a week.</p>	<p style="text-align: right;">271</p> <p>1 equipment. That was -- that was the only practical</p> <p>2 test.</p> <p>3 Q. Was part of the training whether or -- was</p> <p>4 part of the training whether or not individuals were --</p> <p>5 met the eligibility criteria for receiving an EIC or --</p> <p>6 yeah.</p> <p>7 A. I'm not sure I understand your question.</p> <p>8 Q. You mentioned tests on practical factors such</p> <p>9 as setting up the technology, correct?</p> <p>10 A. Uh-huh. Uh-huh.</p> <p>11 Q. Were county officials also tested on whether</p> <p>12 or not they understood the EIC eligibility criteria?</p> <p>13 A. I don't know.</p> <p>14 Q. Were county officials ever issuing EICS in the</p> <p>15 absence of DPS employees?</p> <p>16 A. They could.</p> <p>17 Q. But you don't know whether they were actually</p> <p>18 trained on who could get an EIC?</p> <p>19 A. Oh, yes. But I thought your question was:</p> <p>20 Did county officials ever issue an EIC?</p> <p>21 Q. No, I'm sorry. If that's what I said, I</p> <p>22 misspoke.</p> <p>23 I was asking whether county officials</p> <p>24 were trained on the eligibility criteria for EICs.</p> <p>25 A. Yes.</p>
<p style="text-align: right;">270</p> <p>1 Q. So what form did that publication take?</p> <p>2 A. I don't remember.</p> <p>3 Q. You don't know how DPS informed --</p> <p>4 A. Oh, how?</p> <p>5 Q. -- the public?</p> <p>6 A. Oh, yes. Press releases, social media feeds.</p> <p>7 Q. Anything else?</p> <p>8 A. I'm not aware of them.</p> <p>9 Q. Okay. If you can look under "DPS</p> <p>10 Responsibilities," the fourth bullet point is -- reads,</p> <p>11 "Upon successful completion of a six-hour training</p> <p>12 course, DPS will issue mobile EIC station equipment to</p> <p>13 county personnel for return to their respective</p> <p>14 counties."</p> <p>15 What was successful completion of the</p> <p>16 course? What did that constitute?</p> <p>17 A. That constituted them completing this six-hour</p> <p>18 training course.</p> <p>19 Q. So successful completion just means sitting</p> <p>20 through the course?</p> <p>21 A. Yes.</p> <p>22 Q. Did they have to take a test at any point to</p> <p>23 demonstrate knowledge of the material?</p> <p>24 A. They demonstrated the fact that they knew how</p> <p>25 to set the equipment up and how to operate the</p>	<p style="text-align: right;">272</p> <p>1 Q. Were they ever tested to make sure that they</p> <p>2 understood the eligibility criteria?</p> <p>3 A. Not that I'm aware of.</p> <p>4 Q. Before we leave this document, if you could</p> <p>5 flip to Page 2. It's actually Page 5 of the document,</p> <p>6 but it has Page 2 at the bottom.</p> <p>7 Is this an accurate list of all the</p> <p>8 training locations and dates for county officials who</p> <p>9 were issuing EICs in 2013?</p> <p>10 A. I have no reason to believe that it's not.</p> <p>11 Q. Are any such trainings scheduled for 2014?</p> <p>12 A. Not that I'm aware of.</p> <p>13 Q. Have there already been any trainings for</p> <p>14 county officials?</p> <p>15 A. Yes, there have. Yes, there have.</p> <p>16 Q. When did those take place?</p> <p>17 A. I don't recall the dates.</p> <p>18 Q. Do you have a document that would give us that</p> <p>19 information?</p> <p>20 A. There are documents that would -- that</p> <p>21 would -- that would document the training and where it</p> <p>22 was conducted and by whom.</p> <p>23 Q. Do you know whether those document were turned</p> <p>24 over?</p> <p>25 A. No, I don't.</p>

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<p style="text-align: right;">277</p> <p>1 A. I don't know.</p> <p>2 Q. Do you know what -- were county officials</p> <p>3 required by DPS to read the manual as part of the</p> <p>4 training?</p> <p>5 A. I don't know that either.</p> <p>6 Q. So you mentioned before an appendix to</p> <p>7 documents. If you could turn to what is Appendix G.</p> <p>8 A. "G" as in George?</p> <p>9 Q. "G" as in George," which is located at Page</p> <p>10 TexIR 303. So this appendix outlines the primary</p> <p>11 identification, secondary identification, and</p> <p>12 supporting identification documents that are accepted</p> <p>13 for an EIC, correct?</p> <p>14 A. Yes.</p> <p>15 (Exhibit No. 57 marked.)</p> <p>16 MS. CLARK: Thank you.</p> <p>17 Q. (BY MS. CLARK) The second document I just</p> <p>18 handed you is a printout from Texas DPS's website from</p> <p>19 a page entitled, "Election Identification Certificates,</p> <p>20 EIC Documentation Requirements," is that correct?</p> <p>21 A. Yes.</p> <p>22 Q. And this -- if you can see through the staple,</p> <p>23 this printout is date stamped 4/27/2014, correct?</p> <p>24 A. Yes.</p> <p>25 Q. So if you can look at the second page of the</p>	<p style="text-align: right;">279</p> <p>1 Q. Which one is correct?</p> <p>2 A. I believe the appendix is correct.</p> <p>3 Q. So the website is presenting incorrect</p> <p>4 information?</p> <p>5 A. Well, it's incomplete.</p> <p>6 Q. Incomplete information.</p> <p>7 So were DPS employees trained to accept</p> <p>8 an American Indian card as form of primary</p> <p>9 identification?</p> <p>10 A. I can't tell you that they were.</p> <p>11 Q. Were they trained to accept a Northern Mariana</p> <p>12 card?</p> <p>13 A. I can't tell you that they were.</p> <p>14 Q. Can you go to the secondary identification</p> <p>15 category?</p> <p>16 A. On which document?</p> <p>17 Q. On the website printout, please.</p> <p>18 A. Okay.</p> <p>19 Q. And if you could compare the documents listed</p> <p>20 there as acceptable secondary identification to the</p> <p>21 ones listed on -- in Appendix G.</p> <p>22 A. Okay.</p> <p>23 Q. Are they the same?</p> <p>24 A. There's an omission in the website with</p> <p>25 respect the DHS -- or the Department of State Health</p>
<p style="text-align: right;">278</p> <p>1 website printout, at the top, it says "Primary</p> <p>2 Identification"?</p> <p>3 A. Yes.</p> <p>4 Q. "Applicants can present one primary document."</p> <p>5 What are the documents that are listed</p> <p>6 there?</p> <p>7 A. "Texas driver's license or personal</p> <p>8 identification card issued to the person that has been</p> <p>9 expired for 60 days and is within two years of</p> <p>10 expiration may be presented as primary identification."</p> <p>11 Q. And going back to Exhibit G, does that list</p> <p>12 the same documents for --</p> <p>13 A. Going back to where?</p> <p>14 Q. Exhibit G from the other document we were --</p> <p>15 I'm sorry. Appendix G from the other document we were</p> <p>16 just looking at.</p> <p>17 A. Okay. And what's your question?</p> <p>18 Q. Whether the primary identification matches the</p> <p>19 one that appears on your website?</p> <p>20 A. The website doesn't mention an American Indian</p> <p>21 card, I872.</p> <p>22 Q. Does it mention a Northern Mariana card, I873?</p> <p>23 A. It does not. It does not.</p> <p>24 Q. What accounts for the discrepancy?</p> <p>25 A. I don't know.</p>	<p style="text-align: right;">280</p> <p>1 Services record of birth issued only for the purpose of</p> <p>2 obtaining an EIC.</p> <p>3 Q. So is it correct that the Texas Department of</p> <p>4 State Health Services record of birth issued only for</p> <p>5 the purpose of obtaining an EIC is an acceptable form</p> <p>6 of secondary identification for an EIC?</p> <p>7 A. It is. It is.</p> <p>8 Q. Why is the website not updated to reflect</p> <p>9 that?</p> <p>10 A. Someone just didn't update it.</p> <p>11 Q. Do you know whether there's any information on</p> <p>12 DPS's website about this EIC birth certificate?</p> <p>13 A. I'm not aware.</p> <p>14 Q. You're not aware of any?</p> <p>15 A. I'm not aware of any on the website.</p> <p>16 Q. Do you know if DPS did any publication or</p> <p>17 otherwise attempted to raise public awareness of the</p> <p>18 EIC birth certificate?</p> <p>19 A. I'm not aware of any.</p> <p>20 Q. Thank you.</p> <p>21 So I would like to transition a little</p> <p>22 bit into talking about outreach and assistance to the</p> <p>23 public as well as public education.</p> <p>24 Does DPS have a campaign to advertise the</p> <p>25 EIC issuance program?</p>

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<p style="text-align: right;">281</p> <p>1 A. I don't know that I could classify it as a</p> <p>2 campaign. There is an effort -- an ongoing effort to</p> <p>3 keep the public apprised of the availability of EICs</p> <p>4 and where they can obtain them and when they obtain</p> <p>5 them and what they need to obtain one.</p> <p>6 Q. So what are the primary venues in which that</p> <p>7 information is publicized?</p> <p>8 A. Press releases.</p> <p>9 Q. That's the primary?</p> <p>10 A. That's the primary.</p> <p>11 Q. So where are your press releases published?</p> <p>12 A. Whoever picks them up. They're sent out</p> <p>13 statewide by our media office. And then if a -- if a</p> <p>14 publication or an electronic media outlet chooses to</p> <p>15 use them, it's up to them. Many of them do, as a</p> <p>16 matter of fact.</p> <p>17 Q. So how many, on average, pick up your press</p> <p>18 releases?</p> <p>19 A. I don't have a clue.</p> <p>20 Q. Does DPS encourage media companies to pick up</p> <p>21 their press releases particularly with regards to the</p> <p>22 EIC program?</p> <p>23 A. I don't know that they're particularly</p> <p>24 encouraged. They're provided the information, and it's</p> <p>25 up to them to use it or not.</p>	<p style="text-align: right;">283</p> <p>1 Q. Has DPS made any attempts to evaluate</p> <p>2 saturation of the message about the EIC among the</p> <p>3 public?</p> <p>4 A. Not that I'm aware of.</p> <p>5 Q. Has DPS set up a hotline to field calls on the</p> <p>6 EIC?</p> <p>7 A. Specifically for EIC?</p> <p>8 Q. Yes, first that.</p> <p>9 A. No, not that it was advertised; but anyone can</p> <p>10 call the call center and get information on EIC's,</p> <p>11 driver's license or ID cards or anything else DPS, for</p> <p>12 that matter.</p> <p>13 Q. So it's one hotline number?</p> <p>14 A. Yes.</p> <p>15 Q. But was that hotline number advertised in --</p> <p>16 or publicized in any press releases or anything else</p> <p>17 specifically pertaining to EICs?</p> <p>18 A. I don't remember specifically that it was in</p> <p>19 the press releases. I believe there is a "for further</p> <p>20 information" contact. And on some of them that number</p> <p>21 was published. Now, whether the outlets picked it up</p> <p>22 or not was up to them.</p> <p>23 Q. That's up to the outlet, that's not DPS?</p> <p>24 A. Yeah. Yeah.</p> <p>25 Q. Does DPS -- do DPS offices have designated</p>
<p style="text-align: right;">282</p> <p>1 Q. Are there any other forms that your -- that</p> <p>2 your EIC public education program takes outside of</p> <p>3 press releases?</p> <p>4 A. Social media.</p> <p>5 Q. What does that consist of?</p> <p>6 A. I know they have a Twitter feed. I think</p> <p>7 there's a Facebook page. But again, media and</p> <p>8 communications would be the ones to answer the</p> <p>9 question.</p> <p>10 Q. And would the best person from media and</p> <p>11 communications to answer that question be Katherine</p> <p>12 Sessinger?</p> <p>13 A. It would.</p> <p>14 Q. Okay. So how much money was budgeted in 2013</p> <p>15 to publicize the EIC program?</p> <p>16 A. None that I'm aware of.</p> <p>17 Q. No money was budgeted for that?</p> <p>18 A. Well, not that I'm aware of; but I'm also not</p> <p>19 familiar with the media and communications budget.</p> <p>20 Q. So Ms. Sessinger would be?</p> <p>21 A. Yes.</p> <p>22 Q. Thank you.</p> <p>23 Were there any particular groups or</p> <p>24 populations targeted by DPS for EIC public education?</p> <p>25 A. No, not that I'm aware of.</p>	<p style="text-align: right;">284</p> <p>1 lines for individuals seeking EICs?</p> <p>2 A. No.</p> <p>3 Q. How is that decision arrived at?</p> <p>4 A. How was the decision not to provide EIC</p> <p>5 dedicated lines?</p> <p>6 Q. Yes.</p> <p>7 A. There was just -- there was no decision made</p> <p>8 not to provide them. We already have telephone lines</p> <p>9 available for anything involving DPS or a driver's</p> <p>10 license.</p> <p>11 Q. I'm sorry. I was unclear. I meant any</p> <p>12 windows at the offices or lines as an actual. You --</p> <p>13 A. Oh, I thought you were talking about telephone</p> <p>14 lines. I'm sorry.</p> <p>15 Q. Sorry. That was unclear.</p> <p>16 A. No, there's not an EIC line in a driver's</p> <p>17 license office, if that's your question.</p> <p>18 Q. Yes.</p> <p>19 A. No.</p> <p>20 Q. And how was that decision arrived at?</p> <p>21 A. Volume.</p> <p>22 Q. So that decision was arrived at after EICs</p> <p>23 were already being issued?</p> <p>24 A. Yes.</p> <p>25 Q. And that was because DPS decided that not</p>

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<p style="text-align: right;">285</p> <p>1 enough people were coming in to warrant a separate</p> <p>2 line?</p> <p>3 A. Yeah. We couldn't -- we couldn't afford to</p> <p>4 dedicate a customer service representative to an empty</p> <p>5 line.</p> <p>6 Q. So would an individual who did come in for an</p> <p>7 EIC be somehow expedited, even if there isn't a</p> <p>8 separate line?</p> <p>9 A. Well, to the extent that -- that an office has</p> <p>10 a queuing system that would indicate what they're there</p> <p>11 for and then they would be directed to the appropriate</p> <p>12 line. And that appropriate line may be the original</p> <p>13 application line depending on what the volume of</p> <p>14 customers is at the time the applicant comes in.</p> <p>15 They're dynamically allocated.</p> <p>16 Q. That's at larger DPS offices?</p> <p>17 A. Those offices that have queuing systems in</p> <p>18 place.</p> <p>19 Q. Are those larger offices?</p> <p>20 A. Typically, yes.</p> <p>21 Q. Okay.</p> <p>22 (Exhibit No. 58 marked.)</p> <p>23 Q. (BY MS. CLARK) So this document is a poster</p> <p>24 that says, "Election Identification Certificates</p> <p>25 Available Here." Is that correct?</p>	<p style="text-align: right;">287</p> <p>1 headquarters building. We authorized the local offices</p> <p>2 to have them printed at local prints shops.</p> <p>3 Q. So it was up to the local offices as to</p> <p>4 whether or not they wanted to display them?</p> <p>5 A. No. They -- they were required to display</p> <p>6 them. It was up to them to get them printed, and that</p> <p>7 was done in order to save time and shipping costs.</p> <p>8 Q. Were -- did headquarters -- in addition to</p> <p>9 requiring the offices to display them, did they tell</p> <p>10 them where to display them or how many to put up in a</p> <p>11 particular office?</p> <p>12 A. I don't recall the specifics of where they had</p> <p>13 to -- what they were told about where they had to</p> <p>14 display them.</p> <p>15 Q. Did -- were these documents displayed anywhere</p> <p>16 other than DPS offices and potentially at mobile EIC</p> <p>17 issuing units?</p> <p>18 A. I'm not aware. I think the -- well, mobile</p> <p>19 stations for the Secretary of State used them. I don't</p> <p>20 know who else would have.</p> <p>21 Q. Was any effort made to put these posters in</p> <p>22 places such as community centers or non-DPS-affiliated</p> <p>23 offices?</p> <p>24 A. Only if there was a mobile station there.</p> <p>25 Q. So are people who come to a DPS office more</p>
<p style="text-align: right;">286</p> <p>1 A. Yes.</p> <p>2 Q. Where is this displayed?</p> <p>3 A. These were typically displayed as door signs</p> <p>4 on the front of the -- or the entrance to the driver's</p> <p>5 license offices or the mobile stations.</p> <p>6 Q. Or the mobile stations?</p> <p>7 A. Yeah. This was developed for the driver</p> <p>8 license offices. And I can't say they used the same</p> <p>9 signs for the mobile stations 'cause they had banners.</p> <p>10 Q. Okay. So did --</p> <p>11 A. And -- I'm sorry. Go ahead.</p> <p>12 Q. No. Go ahead.</p> <p>13 A. And I don't remember for sure, but I believe</p> <p>14 this is the same format for the banners.</p> <p>15 Q. Where were the banners displayed?</p> <p>16 A. Outside the building.</p> <p>17 Q. Outside of DPS offices?</p> <p>18 A. Yes. And if -- in the case of the mobile</p> <p>19 stations, if it could be displayed outside the</p> <p>20 building, it was; otherwise, it was inside the building</p> <p>21 near the issuance point.</p> <p>22 Q. Okay. So did DPS headquarters distribute this</p> <p>23 sign and the banner that looks similar to this sign to</p> <p>24 local offices?</p> <p>25 A. We did not distribute them from the</p>	<p style="text-align: right;">288</p> <p>1 likely to have ID than people who go to other places?</p> <p>2 A. (No verbal response.)</p> <p>3 Q. If someone is coming to a DPS office, are they</p> <p>4 likely to already have ID?</p> <p>5 A. I can't answer the question. I don't know.</p> <p>6 Q. Okay. Was there any -- did you speak with any</p> <p>7 politicians, local community leaders, anybody else</p> <p>8 about whether they would be interested in displaying</p> <p>9 this or similar signage?</p> <p>10 A. I did not.</p> <p>11 Q. Did DPS? I'm sorry.</p> <p>12 A. I don't know whether they were or not.</p> <p>13 Q. Was this document produced in Spanish as well?</p> <p>14 A. It was.</p> <p>15 Q. Are your press releases also written in</p> <p>16 Spanish?</p> <p>17 A. I've not seen one in Spanish, and I can't tell</p> <p>18 you whether they were.</p> <p>19 Q. Do Spanish language media outlet's pick up</p> <p>20 your press releases?</p> <p>21 A. They do.</p> <p>22 Q. Was there targeting of your press releases at</p> <p>23 Spanish language media outlets?</p> <p>24 A. No.</p> <p>25 Q. Does DPS Tweet in Spanish?</p>

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73 (Pages 289 to 292)

<p style="text-align: right;">289</p> <p>1 A. Do we what?</p> <p>2 Q. Tweet in Spanish?</p> <p>3 A. I don't know.</p> <p>4 Q. Do you Facebook post in Spanish?</p> <p>5 A. I don't know that either.</p> <p>6 Q. Thank you.</p> <p>7 A. I'm not a Facebook person or a Twitter person.</p> <p>8 Q. Fair enough.</p> <p>9 (Exhibit No. 59 marked.)</p> <p>10 Q. (BY MS. CLARK) So this is an e-mail. The</p> <p>11 second e-mail from the top on this page is an e-mail</p> <p>12 from Keith Ingram to Joyce Cohen entitled, "Mobile</p> <p>13 EIC." Is that correct?</p> <p>14 A. Yes, it is.</p> <p>15 Q. Do you know who Keith Ingram is?</p> <p>16 A. Yes, I do.</p> <p>17 Q. Who is he?</p> <p>18 A. He's with the Secretary of State's office.</p> <p>19 Q. Who is Joyce Cohen?</p> <p>20 A. I don't know who that is.</p> <p>21 Q. Okay. So in this e-mail Keith Ingram says,</p> <p>22 "We think during business hours is better."</p> <p>23 Do you see that?</p> <p>24 A. Where are you?</p> <p>25 Q. The second e-mail from the top of the page.</p>	<p style="text-align: right;">291</p> <p>1 A. The facilities. You know, we had a county</p> <p>2 facility, for example, that was not open after regular</p> <p>3 business hours. That would have been a problem.</p> <p>4 Q. So it was more convenient for DPS staff for</p> <p>5 them -- for the units to be open during business hours?</p> <p>6 A. Well, that's part of the reason.</p> <p>7 Q. And you believe it was also more convenient</p> <p>8 for applicants for the mobile unit to be open during</p> <p>9 business hours?</p> <p>10 A. Possibly.</p> <p>11 Q. Did DPS consider whether it would be more</p> <p>12 convenient for the applicants to be able to get an EIC</p> <p>13 in the evening?</p> <p>14 A. We did.</p> <p>15 Q. So what leads you to say now that business</p> <p>16 hours is more convenient for the applicants?</p> <p>17 A. I don't know. I just -- that was my</p> <p>18 assumption that, you know, they're accustomed to doing</p> <p>19 business during business hours and not necessarily</p> <p>20 accustomed to trying to get business done after</p> <p>21 business hours.</p> <p>22 Q. Even if they also have their own business,</p> <p>23 such as work, during business hours?</p> <p>24 A. Yes.</p> <p>25 Q. Was there any consideration given to whether</p>
<p style="text-align: right;">290</p> <p>1 A. Okay.</p> <p>2 Q. Where he starts with the line, "Excellent."</p> <p>3 And in the middle of that line he says, "We think</p> <p>4 during business hours is better."</p> <p>5 Do you see that?</p> <p>6 A. Yes, I do.</p> <p>7 Q. So do you agree that he seems to be responding</p> <p>8 to a question about the hours for a county unit issuing</p> <p>9 EICs?</p> <p>10 A. One could assume that, but I don't know what</p> <p>11 he was intending to do.</p> <p>12 Q. You didn't -- I know you weren't on this</p> <p>13 e-mail.</p> <p>14 A. Correct.</p> <p>15 Q. But is that your understanding of what he is</p> <p>16 talking about?</p> <p>17 A. Based on what I read, yes.</p> <p>18 Q. Okay. Did -- does DPS -- did DPS prefer to</p> <p>19 operate the mobile units during business hours?</p> <p>20 A. Well, we would have preferred to operate them</p> <p>21 during business hours just because we -- it was more</p> <p>22 convenient for all concerned.</p> <p>23 Q. Who is "all concerned"?</p> <p>24 A. The applicants, the staff.</p> <p>25 Q. So it's your testimony --</p>	<p style="text-align: right;">292</p> <p>1 weekends might be more convenient for people?</p> <p>2 A. Yes, there was.</p> <p>3 Q. And were mobile EIC units run on weekends?</p> <p>4 A. I believe there were some that were run on</p> <p>5 weekends, but I can't tell you when or where.</p> <p>6 Q. Is there a document that would catalog which</p> <p>7 mobile EIC units were run on weekends?</p> <p>8 A. If -- if they were run on weekends, yes, there</p> <p>9 would be.</p> <p>10 Q. But you don't know that they were?</p> <p>11 A. No.</p> <p>12 Q. Who at DPS would know?</p> <p>13 A. Probably Mr. Rodriguez would be the best since</p> <p>14 he created the matrix that showed all of those</p> <p>15 locations and times.</p> <p>16 Q. Would Mr. Rodriguez also be able to testify</p> <p>17 about whether there were any mobile EIC units that were</p> <p>18 run after -- outside of business hours during the week?</p> <p>19 A. Yes, he would.</p> <p>20 Q. He would. Okay. Thank you.</p> <p>21 MR. KEISTER: One at a time. She keeps</p> <p>22 looking at me.</p> <p>23 MS. CLARK: Sorry.</p> <p>24 THE WITNESS: Well, she needs to just</p> <p>25 kick me.</p>

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74 (Pages 293 to 296)

<p style="text-align: right;">293</p> <p>1 Q. (BY MS. CLARK) So is it accurate then to say</p> <p>2 that DPS believed during business hours it was better,</p> <p>3 too?</p> <p>4 A. Yes.</p> <p>5 Q. Thank you.</p> <p>6 (Exhibit No. 60 marked.)</p> <p>7 MR. KEISTER: Thank you.</p> <p>8 Q. (BY MS. CLARK) So the document that I just</p> <p>9 handed you is entitled, "Media Publication Outreach</p> <p>10 Election Identification Certificates."</p> <p>11 Is that right?</p> <p>12 A. Yes.</p> <p>13 Q. Does this -- and this document reports to</p> <p>14 cover the times between August 30th, 2012 and</p> <p>15 February 14th, 2014; is that right?</p> <p>16 A. Correct.</p> <p>17 Q. Does this represent the entirety of DPS'</p> <p>18 public education and outreach campaign as to EIC</p> <p>19 issuance?</p> <p>20 A. I can't answer the question with any assurance</p> <p>21 of accuracy that this represents all of the outreach</p> <p>22 efforts. And the media office would be the best ones</p> <p>23 to answer that question.</p> <p>24 Q. How did DPS arrive at its media and public</p> <p>25 outreach campaigns?</p>	<p style="text-align: right;">295</p> <p>1 MS. CLARK: Okay.</p> <p>2 THE REPORTER: Off the record.</p> <p>3 (Recess from 4:08 p.m. to 4:15 p.m.)</p> <p>4 THE REPORTER: Back on the record.</p> <p>5 Q. (BY MS. CLARK) So I just want to visit a</p> <p>6 couple of things that we talked about. First, going</p> <p>7 back to employee training within DPS, I think you</p> <p>8 testified earlier that if an employee was not trained</p> <p>9 on EIC issuance, then they weren't permitted to issue</p> <p>10 an EIC; is that correct?</p> <p>11 A. Correct.</p> <p>12 Q. So if an employee wasn't trained on EIC</p> <p>13 issuance, were they not permitted to then work their</p> <p>14 next shift?</p> <p>15 A. I'm not sure I understand your question.</p> <p>16 Q. So --</p> <p>17 A. If they weren't trained.</p> <p>18 Q. Yes. On EIC issuance.</p> <p>19 A. Uh-huh.</p> <p>20 Q. Then your testimony is that they would not be</p> <p>21 allowed to issue EICs; is that right?</p> <p>22 A. Correct.</p> <p>23 Q. How would -- how is that monitored?</p> <p>24 A. The supervisors would be monitoring that.</p> <p>25 Q. Would they be monitoring that by not allowing</p>
<p style="text-align: right;">294</p> <p>1 A. I don't know.</p> <p>2 Q. Does DPS have an statutory obligation under</p> <p>3 S.B.14 to advertise or otherwise publicize the EIC</p> <p>4 campaign?</p> <p>5 A. Not that I'm aware of.</p> <p>6 Q. Is there any other formal requirement that DPS</p> <p>7 do so?</p> <p>8 A. Not that I'm aware of.</p> <p>9 Q. Does DPS have any obligation to publicize the</p> <p>10 EIC program?</p> <p>11 A. Maybe a moral and ethical obligation, but no</p> <p>12 written.</p> <p>13 Q. Is there another entity other than DPS who is</p> <p>14 more responsible in educating the public -- for</p> <p>15 educating the public about EIC?</p> <p>16 MR. KEISTER: Objection, form; calls for</p> <p>17 speculation.</p> <p>18 THE WITNESS: I don't know.</p> <p>19 Q. (BY MS. CLARK) So you haven't seen any</p> <p>20 documents that would indicate who has that</p> <p>21 responsibility?</p> <p>22 A. No.</p> <p>23 MS. CLARK: All right. I pass the</p> <p>24 witness. Thank you.</p> <p>25 MS. RUDD: Let's go off the record.</p>	<p style="text-align: right;">296</p> <p>1 them to work?</p> <p>2 A. They -- no. They're still -- they can still</p> <p>3 issue or process driver license transactions and ID</p> <p>4 card transactions.</p> <p>5 Q. So is it true, then, that no employee can</p> <p>6 issue an EIC without first going to their supervisor?</p> <p>7 A. Well, they have to be trained.</p> <p>8 Q. But how does -- I understand that.</p> <p>9 A. The supervisor has the capability of</p> <p>10 monitoring what a customer service representative is</p> <p>11 doing at their station, and it would be kind of an</p> <p>12 audit process where they take -- excuse me -- a sample</p> <p>13 of who is doing what.</p> <p>14 Q. So you're saying, then, that any employee that</p> <p>15 had not been trained on EICs after the point at which</p> <p>16 Texas began issuing the EICs, would have been</p> <p>17 consistently audited and monitored until they were</p> <p>18 trained?</p> <p>19 A. No. That's not what I'm saying.</p> <p>20 Q. Then how would there -- how would it be</p> <p>21 prevented that they would encounter a customer seeking</p> <p>22 an EIC?</p> <p>23 A. It wouldn't necessarily be prevented, that I</p> <p>24 know of, you know; but the employees are told that they</p> <p>25 would not be able to issue EICs. But I'm not aware of</p>

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79 (Pages 313 to 316)

<p style="text-align: right;">313</p> <p>1 Q. And the only reference to the Transportation</p> <p>2 Code that I can find is Section 521.142. It just says,</p> <p>3 "The Department may require each applicant for an</p> <p>4 original or renewal election identification certificate</p> <p>5 to furnish to the Department the information required</p> <p>6 by that," Section 521.142.</p> <p>7 Possibly that's what you're talking about</p> <p>8 that?</p> <p>9 A. That's what I think I'm talking about.</p> <p>10 Q. I understand. It's not a test.</p> <p>11 A. Okay.</p> <p>12 Q. I couldn't tell you the number in two minutes</p> <p>13 from now.</p> <p>14 A. Yeah.</p> <p>15 Q. And in reviewing that section, I'll represent</p> <p>16 to you that it has a lot of things that -- that are</p> <p>17 mentioned; thumb print, photograph, signature, brief</p> <p>18 description, things I've seen before; the sex, these</p> <p>19 kind of questions. And nowhere does it say anything</p> <p>20 specific about their place of birth. There is one</p> <p>21 section that says "The Department" -- I believe it</p> <p>22 says, "The Department" -- sorry -- "The application</p> <p>23 must include other information the Department requires</p> <p>24 to determine the applicant's identity, residency,</p> <p>25 competency, and eligibility as required by the</p>	<p style="text-align: right;">315</p> <p>1 consistent with that?</p> <p>2 A. That's correct.</p> <p>3 Q. Okay. By the way, on the website -- and I</p> <p>4 referenced it earlier -- you would agree that -- that</p> <p>5 that is one place that the public would get information</p> <p>6 from; is that right?</p> <p>7 A. Correct.</p> <p>8 Q. So when you have this listing of your various</p> <p>9 press releases, which may or may not be picked up by</p> <p>10 news organizations and Tweets, certainly the Internet</p> <p>11 itself and your website itself would be one place you</p> <p>12 should be able to get information?</p> <p>13 A. Yes.</p> <p>14 Q. And -- and thus, why I'm asking about it,</p> <p>15 because, obviously, this is a -- definitely one</p> <p>16 location that the public would want to gather</p> <p>17 information from.</p> <p>18 Do you have any idea how many times the</p> <p>19 public has accessed this information off the website?</p> <p>20 A. I don't.</p> <p>21 Q. If that information was kept, it would be kept</p> <p>22 by the web department, media department, something like</p> <p>23 that?</p> <p>24 A. Yes, sir.</p> <p>25 Q. In the break I showed you a page that if you</p>
<p style="text-align: right;">314</p> <p>1 Department or state law." Sort of a fairly broad</p> <p>2 question. Is that possibly where maybe the authority</p> <p>3 could come from?</p> <p>4 A. Yes, sir.</p> <p>5 Q. I left that wide open, didn't I?</p> <p>6 Well, I'm wondering if the place of</p> <p>7 birth, how that could impact or make a determination of</p> <p>8 someone's identity. I mean, just because you know</p> <p>9 where they're born, would that somehow or another make</p> <p>10 the department feel like: I'm comfortable with that's</p> <p>11 who they say they are, 'cause you know where they were</p> <p>12 born?</p> <p>13 A. I can't answer the question.</p> <p>14 Q. Okay. What about any of the others;</p> <p>15 residency, competency, or eligibility? I'm just trying</p> <p>16 to understand why it would make any difference to the</p> <p>17 department where you're born in order to get an EIC.</p> <p>18 A. I -- I don't have an answer for why where</p> <p>19 you're born makes a difference.</p> <p>20 Q. Is that -- by the way, I assume -- or I don't</p> <p>21 know, actually. Is -- is the place of birth also</p> <p>22 required in order to get a driver's license and any</p> <p>23 other -- and the personal identification card?</p> <p>24 A. I believe it is.</p> <p>25 Q. Okay. So if it is, then, this would just be</p>	<p style="text-align: right;">316</p> <p>1 type in DPS and EIC, that's all you type. I represent</p> <p>2 to you that this one page comes up first or second</p> <p>3 every time.</p> <p>4 A. Yes, sir.</p> <p>5 Q. Google. Sorry. Using the -- you know,</p> <p>6 these -- an unknown quantity to Google, right, not</p> <p>7 being the other ones are. And I showed you that at the</p> <p>8 break, and I'm not going to test you on it. I just</p> <p>9 wanted you to look it over very briefly, and I don't</p> <p>10 have a printout of it. But I'll represent to you that</p> <p>11 it says -- and this is the final thing. Okay? Final</p> <p>12 topic.</p> <p>13 It says that -- that if you're using a</p> <p>14 name other than what's on your birth certificate, for</p> <p>15 example, your married name, you will be required to</p> <p>16 show legal documentation of your name change. I'm just</p> <p>17 reading right off the website.</p> <p>18 A. I understand.</p> <p>19 Q. "Documents must be original certified. No</p> <p>20 photocopies may be accepted. Acceptable documents are</p> <p>21 one, marriage license; two, divorce decree; or three,</p> <p>22 court ordered name change." I'll represent to you that</p> <p>23 that's the information I got.</p> <p>24 Does that sound like accurate information</p> <p>25 to you that DPS would want to put out?</p>

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81 (Pages 321 to 324)

<p style="text-align: right;">321</p> <p>1 contact with the Secretary of State's office.</p> <p>2 Q. Okay. Are you currently tracking issuance of</p> <p>3 election identification certificates?</p> <p>4 A. Yes.</p> <p>5 Q. Statewide?</p> <p>6 A. Yes.</p> <p>7 Q. By region?</p> <p>8 A. Yes. Even by zip code.</p> <p>9 Q. Are you issuing any regional reports?</p> <p>10 A. As a statewide report. We can issue a</p> <p>11 regional report if it's required, yes.</p> <p>12 Q. Are the regions offering data to DPS centrally</p> <p>13 on a weekly basis?</p> <p>14 A. They are -- they -- yes, they are. They're</p> <p>15 offering data daily.</p> <p>16 Q. Are they issuing any information specific to</p> <p>17 mobile offices?</p> <p>18 A. Is DPS issuing the information?</p> <p>19 Q. The regions offering it to central DPS.</p> <p>20 A. Yes. If -- when -- when a mobile office</p> <p>21 issues an EIC --</p> <p>22 Q. Uh-huh.</p> <p>23 A. -- that data comes back to a driver license</p> <p>24 office for upload into driver license system, and it's</p> <p>25 at that point that it's reported to headquarters.</p>	<p style="text-align: right;">323</p> <p>1 A. Yes, sir.</p> <p>2 Q. Has that been updated since?</p> <p>3 A. Yes, it has.</p> <p>4 Q. One last question. And this actually</p> <p>5 something that I think Robert was trying to get at.</p> <p>6 Can an EIC be obtained without proof of</p> <p>7 Texas residence?</p> <p>8 A. Yes, I believe it can.</p> <p>9 Q. Okay.</p> <p>10 MR. FREEMAN: Then I pass the witness.</p> <p>11 MR. DUNBAR: No more than five minutes, I</p> <p>12 promise. Probably less.</p> <p>13 FURTHER EXAMINATION</p> <p>14 BY MR. DUNBAR:</p> <p>15 Q. And I apologize if I asked before. I wanted</p> <p>16 to the make sure the record is clear.</p> <p>17 Has DPS at any time done a study or</p> <p>18 analysis of expected demand for EICs?</p> <p>19 A. No, sir.</p> <p>20 Q. So as of today sitting here, there are no</p> <p>21 internal documents that look forward predicting what</p> <p>22 demand will be for EICs?</p> <p>23 A. Not that I'm aware of.</p> <p>24 Q. Okay. And you've testified at today, I think,</p> <p>25 in several different contexts, that references to MDILs</p>
<p style="text-align: right;">322</p> <p>1 Q. Are there any summary reports?</p> <p>2 A. Of -- of those --</p> <p>3 Q. Of those EIC issuances?</p> <p>4 A. Yes.</p> <p>5 Q. Are you currently tracking interactions with</p> <p>6 individuals who come to DPS or a mobile station seeking</p> <p>7 an EIC that do not result in an issuance of an EIC?</p> <p>8 A. Yes. We know how many people came in and</p> <p>9 actually made an application and for whatever reason</p> <p>10 didn't get one.</p> <p>11 Q. And is that, again, a statewide report?</p> <p>12 A. Yes, it is.</p> <p>13 Q. Does that name the individuals who came in?</p> <p>14 A. In some cases it does. Those that -- when an</p> <p>15 application is made and accepted and a receipt is</p> <p>16 issued and it comes to quality assurance?</p> <p>17 Q. Uh-huh.</p> <p>18 A. Then, yes, we track -- we have those names.</p> <p>19 Q. Sorry to add another -- one last exhibit.</p> <p>20 (Exhibit No. 62 marked.)</p> <p>21 Q. (BY MR. FREEMAN) Have you seen Exhibit 62</p> <p>22 before?</p> <p>23 A. Yes, I have.</p> <p>24 Q. And Exhibit 62, am I correct that that's</p> <p>25 present as of -- when only 53 EICs had been issued?</p>	<p style="text-align: right;">324</p> <p>1 and that not that many people have applied for EICs; is</p> <p>2 that correct?</p> <p>3 A. Yes.</p> <p>4 Q. Is that surprising to you that demand for EICs</p> <p>5 has been what you would qualify as low?</p> <p>6 A. Does it surprise me that it's low?</p> <p>7 Q. Does it surprise DPS?</p> <p>8 A. Well, to some extent. I mean, we really</p> <p>9 didn't have a feel for how many were going to apply.</p> <p>10 Q. And I take it -- well, I shouldn't say it that</p> <p>11 way.</p> <p>12 Let me ask it this way. In your view, is</p> <p>13 the result of low applications for EICs a result of</p> <p>14 DPS' failure to engage in appropriate outreach?</p> <p>15 A. No.</p> <p>16 Q. In your view, is the low demand for EICs to</p> <p>17 date, again, low demand in your view, the result of</p> <p>18 DPS' failure to ameliorate the burdens of obtaining an</p> <p>19 EIC?</p> <p>20 A. No.</p> <p>21 Q. Okay. So in DPS' view, DPS has done</p> <p>22 everything right, yet demand for DPS applications has</p> <p>23 been low.</p> <p>24 Is that an accurate summary of DPS' view?</p> <p>25 A. Yes.</p>

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<p style="text-align: right;">1</p> <p>1 IN THE UNITED STATES DISTRICT COURT 2 FOR THE SOUTHERN DISTRICT OF TEXAS 3 CORPUS CHRISTI DIVISION 4 MARC VEASEY, et al.,) 5 Plaintiffs,) 6 v.) Civil Action 7) No. 2:13-cv-193(NGR) 8 RICK PERRY, et al.,) 9 Defendants.) 10) 11 UNITED STATES OF AMERICA,) 12 Plaintiff,) 13) 14 TEXAS LEAGUE OF YOUNG) 15 VOTERS EDUCATION FUND,) 16 et al.,) 17) 18 Plaintiff-) Civil Action 19 Intervenor,) No. 2:13-cv-263(NGR) 20) 21 TEXAS ASSOCIATION OF) 22 HISPANIC COUNTY JUDGES AND) 23 COUNTY COMMISSIONERS,) 24 et al.,) 25 Plaintiff-) Intervenor,) v.) STATE OF TEXAS, et al.,) Defendants.) <<<<<HIGHLY CONFIDENTIAL>>>>> ***** ORAL DEPOSITION OF REPRESENTATIVE DEBORAH RIDDLE JUNE 18, 2014 *****</p>	<p style="text-align: right;">3</p> <p>1 A P P E A R A N C E S 2 3 FOR THE PLAINTIFF UNITED STATES OF AMERICA: 4 5 U.S. DEPARTMENT OF JUSTICE 6 Civil Rights Division 7 950 Pennsylvania Avenue, NW - NWB Room 7254 8 Washington, D.C. 20530 9 Mr. Bruce Gear 10 202.305.4355 11 bruce.gear@usdoj.gov 12 13 FOR THE PLAINTIFFS TEXAS STATE CONFERENCE OF NAACP 14 BRANCHES, MEXICAN AMERICAN LEGISLATIVE CAUCUS OF THE 15 TEXAS HOUSE OF REPRESENTATIVES: 16 DECHERT LLP 17 902 Carnegie Center, Suite 500 18 Princeton, New Jersey 08540 19 Mr. Ezra D. Rosenberg 20 609.955.3200 21 ezra.rosenberg@dechert.com 22 23 -AND- 24 25 500 W. 6th Street, Suite 2010 Austin, Texas 78701 512.394.3000 lindsey.cohan@dechert.com Ms. Lindsey B. Cohan -AND- NAACP LEGAL DEFENSE & EDUCATIONAL FUND, INC. 40 Rector Street, 5th Floor New York, New York 10006 Mr. Deuel Ross - via telephone 212.965.2200 dross@naacpldf.org -AND- -CONT'D-</p>
<p style="text-align: right;">2</p> <p>1 ORAL DEPOSITION of REPRESENTATIVE DEBORAH 2 RIDDLE, produced as a witness at the instance of the 3 Plaintiffs and duly sworn, was taken in the 4 above-styled and numbered cause on June 18, 2014, from 5 9:14 a.m. to 2:55 p.m., before Denyce M. Sanders, CSR, 6 RPR, CRR, TCRR, in and for the State of Texas, 7 recorded by machine shorthand, at the offices of 8 Riddle & Akiens, 4201 Cypress Creek Parkway, Suite 9 550, Houston, Texas, pursuant to the Federal Rules of 10 Civil Procedure and the provisions stated on the 11 record or attached hereto; signature having been 12 waived. 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">4</p> <p>1 LAWYERS' COMMITTEE FOR CIVIL RIGHTS UNDER LAW 2 1401 New York Avenue, N.W., Suite 400 3 Washington, D.C. 20005 4 Ms. Sonia Kaur Gill - via telephone 5 202.319.1000 6 sgill@lawyerscommittee.org 7 Ms. Erandi Zamora - via telephone 8 ezamora@lawyerscommittee.org 9 10 FOR THE DEFENDANT TEXAS LEAGUE OF YOUNG VOTERS 11 PLAINTIFF-INTERVENORS: 12 WILMER CUTLER PICKERING HALE AND DOOR, LLP 13 1875 Pennsylvania Avenue, NW 14 Washington, D.C. 20006 15 Ms. Tania Faransso 16 202.663.6262 17 tania.faransso@wilmerhale.com 18 19 FOR THE DEFENDANTS: 20 21 OFFICE OF THE ATTORNEY GENERAL OF TEXAS 22 Consumer Protection Division 23 808 Travis, Suite 1520 24 Houston, Texas 77002 25 Ms. Rosemarie Donnelly 713.225.8919 rosemarie.donnelly@texasattorneygeneral.gov FOR THE DEFENDANTS RICK PERRY, STATE OF TEXAS, NANDITA BERRY, AND THE DEPARTMENT OF PUBLIC SAFETY: OFFICE OF THE ATTORNEY GENERAL TORT LITIGATION DIVISION P.O. Box 12548, Capitol Station Austin, Texas 78711 Mr. John Scott</p>

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4 (Pages 13 to 16)

<p style="text-align: right;">13</p> <p>1 like I said, with all the grandchildren and</p> <p>2 everything, by the end of the day, I was too tired to</p> <p>3 read anything. Have you ever been so tired your eyes</p> <p>4 crossed? So I did not -- I did not read it. I should</p> <p>5 have, but I did not.</p> <p>6 Q. Other than reading or glancing or whatever at</p> <p>7 the transcript, did you review any other documents in</p> <p>8 preparation for the deposition?</p> <p>9 A. No, sir.</p> <p>10 Q. Let me show you a document which I premarked</p> <p>11 as Riddle Exhibit 1 [sic].</p> <p>12 (Riddle Exhibit 148 marked/introduced.)</p> <p>13 Q. (BY MR. ROSENBERG) Have you seen this</p> <p>14 document?</p> <p>15 MR. ROSENBERG: And just for the record,</p> <p>16 this is the subpoena to produce documents.</p> <p>17 A. I don't remember seeing this, if this was on</p> <p>18 the -- what I looked at yesterday, I don't recall</p> <p>19 seeing it.</p> <p>20 Q. Are you aware that in April of this year, a</p> <p>21 subpoena was issued to you to produce documents in</p> <p>22 connection with this case?</p> <p>23 A. I don't -- I don't -- I don't think so. I</p> <p>24 don't recall.</p> <p>25 Q. Do you recall undertaking a review of your</p>	<p style="text-align: right;">15</p> <p>1 A. I believe that they were wanting any and all</p> <p>2 bills that I had filed or worked with regarding the</p> <p>3 voter photo ID issue.</p> <p>4 Q. Do you recall whether the request was more</p> <p>5 extensive than just the bills but also covered</p> <p>6 documents relating to the bills?</p> <p>7 A. I think they wanted absolutely everything. I</p> <p>8 think that I said, "Just let them have everything." I</p> <p>9 think they wanted notepads, Post-it notes, files, I</p> <p>10 think they wanted computer access. And I was a little</p> <p>11 surprised, but I said, "I have nothing to hide. Let</p> <p>12 them have anything they want. Just give them a key to</p> <p>13 the office and they can have at it."</p> <p>14 Q. Do you know whether documents were produced</p> <p>15 pursuant to that -- those requests?</p> <p>16 A. I believe they were.</p> <p>17 Q. What e-mail service -- servers do you use for</p> <p>18 purposes of your correspondence?</p> <p>19 A. I have no idea. I -- I have my iPad, and the</p> <p>20 State -- my staff pretty much handles my State e-mail.</p> <p>21 (Mr. Scott enters the room.)</p> <p>22 A. And my server at home is down, and I have no</p> <p>23 idea what server that is, but I don't -- that's just</p> <p>24 for my personal --</p> <p>25 Q. Do you --</p>
<p style="text-align: right;">14</p> <p>1 documents in order to collect documents for this case</p> <p>2 this year?</p> <p>3 A. Are you referring to requests made of my</p> <p>4 office?</p> <p>5 Q. Well, are you aware of any requests, either</p> <p>6 to your office or to you, for the collection of</p> <p>7 documents in connection with this case this year?</p> <p>8 A. There was a request made from my office, and</p> <p>9 I suspect it was from you. My chief of staff called</p> <p>10 and said that y'all wanted various files and things to</p> <p>11 review, and I said, "Just give them a key to the</p> <p>12 office, they can have anything they want."</p> <p>13 Q. And who is your chief of staff?</p> <p>14 A. Shelton Green.</p> <p>15 Q. And do you recall when that conversation</p> <p>16 occurred -- is Shelton a man, Mr. Green?</p> <p>17 A. Yes.</p> <p>18 MR. SCOTT: Keep going.</p> <p>19 (Mr. Scott exits the room.)</p> <p>20 Q. (BY MR. ROSENBERG) Do you recall when that</p> <p>21 conversation occurred?</p> <p>22 A. No, sir. I think it was a few months ago,</p> <p>23 but I don't recall.</p> <p>24 Q. Do you know what documents were being</p> <p>25 requested at that time?</p>	<p style="text-align: right;">16</p> <p>1 A. -- communication and campaign.</p> <p>2 Q. I'm sorry. I don't mean to interrupt, and if</p> <p>3 at any time I interrupt, please tell me I'm</p> <p>4 interrupting you.</p> <p>5 Do you use -- do you know which e-mail</p> <p>6 service you use for your personal e-mail? Is it AOL</p> <p>7 or Yahoo or Gmail?</p> <p>8 A. I don't know. I'd have to ask my son. But</p> <p>9 my server has been down so long, I've not even been</p> <p>10 able to send anything out. You're welcome to look at</p> <p>11 my iPad. I've got it in my office. You can tell I've</p> <p>12 not sent anything out.</p> <p>13 I've received e-mails, but I've pretty much</p> <p>14 let everybody know that I didn't know why I couldn't</p> <p>15 send anything out from my personal. My son said it's</p> <p>16 because there's something wrong with my server, but,</p> <p>17 quite frankly, I haven't had time to deal with it.</p> <p>18 And as far as e-mails with my office, my staff handles</p> <p>19 that.</p> <p>20 Q. Do you ever use your personal e-mail, before</p> <p>21 your server -- your personal server went down for</p> <p>22 conducting any State business in terms of</p> <p>23 correspondence or e-mails relating to State business?</p> <p>24 A. No, sir. And I can tell you why. Because I</p> <p>25 like everything having to do with the State on the</p>

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<p style="text-align: right;">21</p> <p>1 who live below the poverty line?</p> <p>2 A. Again, I don't look at those types of</p> <p>3 statistics, sir.</p> <p>4 Q. I'm not even -- I'm not asking in terms of</p> <p>5 statistics, just in terms of your general knowledge of</p> <p>6 the district which you represent.</p> <p>7 A. The various subdivisions that the people live</p> <p>8 in are families, for the most part, and they're</p> <p>9 hardworking, God fearing, very patriotic people that</p> <p>10 live in my district. If they're below the poverty</p> <p>11 line and if they call my office and need assistance,</p> <p>12 then we give that assistance, sir. But I don't do any</p> <p>13 statistical analysis of who is above the poverty line</p> <p>14 or who is not.</p> <p>15 Q. Okay. I'd like to turn your attention to the</p> <p>16 next document, which I premarked as Riddle -- well, as</p> <p>17 I guess it's just Exhibit 149.</p> <p>18 (Riddle Exhibit 149 marked/introduced.)</p> <p>19 Q. (BY MR. ROSENBERG) And ask you if you can</p> <p>20 identify this document just for the record.</p> <p>21 A. Yes, sir. This is House Bill No. 1706.</p> <p>22 Q. And do you have a memory of what House Bill</p> <p>23 No. 1706 is?</p> <p>24 A. We have so many bills every session, I'm not</p> <p>25 even sure what session this is from.</p>	<p style="text-align: right;">23</p> <p>1 a very long time.</p> <p>2 Q. And what do you remember about it?</p> <p>3 A. Looking at it, I can just tell you that it</p> <p>4 was introduced. I don't remember even if it came to a</p> <p>5 vote, I don't recall.</p> <p>6 Q. And do you recall what the subject matter of</p> <p>7 this bill was?</p> <p>8 A. I don't recall from my memory, but by looking</p> <p>9 at the document, I can tell it has to do with</p> <p>10 apparently presenting identification when one goes to</p> <p>11 vote.</p> <p>12 Q. Do you recall whether you supported this</p> <p>13 bill?</p> <p>14 A. I honestly don't recall the vote, if it -- I</p> <p>15 don't even recall if it came to a vote; but if it came</p> <p>16 to a vote, I suspect I did.</p> <p>17 (Riddle Exhibit 150 marked/introduced.)</p> <p>18 Q. (BY MR. ROSENBERG) I'm going to show you</p> <p>19 another document, which we've marked as Riddle Exhibit</p> <p>20 150, and ask you if you recall this document. If</p> <p>21 you've ever seen this document.</p> <p>22 A. Okay. This takes effect in 2007. This must</p> <p>23 have been in my third session. HB 101. This, once</p> <p>24 again, appears to be a bill regarding voters</p> <p>25 presenting proof of identity.</p>
<p style="text-align: right;">22</p> <p>1 Q. Well, I'll turn your attention to the last</p> <p>2 page, page 10, which said this act takes effect</p> <p>3 September 1, 2005, and ask you if that refreshes your</p> <p>4 recollection as to what session this is.</p> <p>5 A. I'm going to need to -- 2005, that must have</p> <p>6 been my second session. I've been there 14 years.</p> <p>7 I'm afraid I would need to read this in order to</p> <p>8 recollect my -- have my memory click in here.</p> <p>9 Q. Well, I'd like you to turn your attention --</p> <p>10 let's see if this helps you further your</p> <p>11 recollection -- to page 4 of the document, "Section</p> <p>12 63.0101. Documentation of Proof of Identification."</p> <p>13 A. On what page?</p> <p>14 MS. DONNELLY: Let me interject here.</p> <p>15 MR. ROSENBERG: Sure.</p> <p>16 MS. DONNELLY: Representative Riddle, if</p> <p>17 you need to read the document, feel free to do that.</p> <p>18 Take the time to do that.</p> <p>19 A. I would really like to read the document,</p> <p>20 please.</p> <p>21 Q. (BY MR. ROSENBERG) Sure. Go ahead.</p> <p>22 A. Okay. What was your question?</p> <p>23 Q. Having reviewed the document, are you</p> <p>24 familiar with this document?</p> <p>25 A. I -- I vaguely remember it, yeah. It's been</p>	<p style="text-align: right;">24</p> <p>1 Q. And do you know who drafted this bill?</p> <p>2 A. Our legislative counsel at the capital</p> <p>3 always -- usually always draft -- does the bill</p> <p>4 drafting part.</p> <p>5 Q. Did you participate in the drafting of this</p> <p>6 bill?</p> <p>7 A. As far as sitting down and writing it on a</p> <p>8 legal pad or something like that?</p> <p>9 Q. How about asking for it to be drafted.</p> <p>10 A. Yes, sir, I have requested the draft.</p> <p>11 Q. And that's why your name is on the first</p> <p>12 page?</p> <p>13 A. Yes, sir.</p> <p>14 Q. And are you considered the author of this</p> <p>15 bill?</p> <p>16 A. Yes, sir.</p> <p>17 Q. And can you summarize what this bill</p> <p>18 purported to do?</p> <p>19 A. I really cannot improve on the wording</p> <p>20 itself, so it says, "a copy of a document providing</p> <p>21 proof that the applicant is a United States citizen.</p> <p>22 The following documentation is acceptable as proof of</p> <p>23 citizenship...a birth certificate or other document</p> <p>24 confirming birth that is admissible in a court of</p> <p>25 law."</p>

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<p style="text-align: right;">29</p> <p>1 document says, because it is very clear what the</p> <p>2 document has to say. I cannot improve on the wording</p> <p>3 that the document states. If you want me to improve</p> <p>4 upon it, that's impossible, because the document is</p> <p>5 succinct, it's clear, it's underlined, it's easy to</p> <p>6 understand. I cannot improve upon what is here.</p> <p>7 Q. Okay.</p> <p>8 A. If you want me to do that, I can't do that.</p> <p>9 I can't make it easier than it already is, sir. And</p> <p>10 so I'm going to have to go on legislative privilege,</p> <p>11 because you're asking me to do something I -- I just</p> <p>12 don't think is reasonable.</p> <p>13 Q. Well, I'm not exactly sure what your position</p> <p>14 is, but I will move on and ask another question.</p> <p>15 A. Okay.</p> <p>16 Q. Paragraph 1 of -- on page 6 under 63.0101</p> <p>17 states: "a driver's license or personal</p> <p>18 identification card issued to the person by the</p> <p>19 Department of Public Safety or the equivalent agency</p> <p>20 of another state that has not expired or that expired</p> <p>21 no earlier than two years before the date of</p> <p>22 presentation."</p> <p>23 Did I read that correctly?</p> <p>24 A. Yes, sir.</p> <p>25 Q. And does that mean that one of the acceptable</p>	<p style="text-align: right;">31</p> <p>1 identification card issued by a public or private</p> <p>2 institution of higher education that contains the</p> <p>3 person's photograph."</p> <p>4 Did I read that correctly?</p> <p>5 A. Yes, sir, you read that correctly.</p> <p>6 Q. In paragraph 8 on the next page, it says:</p> <p>7 "an identification card issued by a state agency of</p> <p>8 this state that contains the person's photograph."</p> <p>9 Correct? Did I read that correctly?</p> <p>10 A. Would you please reread that?</p> <p>11 Q. Sure.</p> <p>12 A. I got distracted.</p> <p>13 Q. "An identification card issued by a state</p> <p>14 agency of this state that contains the person's</p> <p>15 photograph."</p> <p>16 Did I read that correctly?</p> <p>17 A. Yes, sir, you read it correctly.</p> <p>18 Q. And paragraph 9 says: "an identification</p> <p>19 card that contains the person's photograph and is</p> <p>20 issued by a county elections administrator or a county</p> <p>21 clerk."</p> <p>22 Did I read that correctly?</p> <p>23 A. Yes, sir, you did.</p> <p>24 Q. Then paragraph B deals with documentation</p> <p>25 that is acceptable as proof of identification under</p>
<p style="text-align: right;">30</p> <p>1 documents of proof of identification under HB 101 was</p> <p>2 a driver's license issued by either the Texas</p> <p>3 Department of Public Safety, or that of any other</p> <p>4 state, that has not expired or that expired no earlier</p> <p>5 than two years before the date of presentation?</p> <p>6 A. According to Line 2 on page 6 of HB 101, it</p> <p>7 states: "The following documentation is an acceptable</p> <p>8 form of photo identification under this chapter," and</p> <p>9 then it goes down, "(1) a driver's license or personal</p> <p>10 identification card issued to the" personal -- "person</p> <p>11 by the Department of Public Safety or" -- and the part</p> <p>12 that is underlined would be the new part of the</p> <p>13 law -- "or the equivalent agency of another state that</p> <p>14 has not expired or that expired no earlier than two</p> <p>15 years before the date of presentation."</p> <p>16 Q. So was my reading correct?</p> <p>17 A. Your reading was correct.</p> <p>18 Q. Thank you.</p> <p>19 In paragraph 3, it says: "a valid employee</p> <p>20 identification card that contains the person's</p> <p>21 photograph and is issued by an employer of the person</p> <p>22 in the ordinary course of the employer's business."</p> <p>23 Did I read that correct?</p> <p>24 A. Yes, you read that correctly.</p> <p>25 Q. And in paragraph 6, it says: "a student</p>	<p style="text-align: right;">32</p> <p>1 this chapter; is that correct?</p> <p>2 A. Yes, sir.</p> <p>3 Q. And it lists several nonphotographic</p> <p>4 identifications; is that correct?</p> <p>5 A. I haven't read that yet.</p> <p>6 Yes, sir.</p> <p>7 Q. And under -- I don't want you to have the</p> <p>8 read the whole statute -- is it a fair construction of</p> <p>9 your bill that proof of identity at the polling place</p> <p>10 could be proved either by one piece of photographic</p> <p>11 identification under Section A, 63.0101(a), or two</p> <p>12 pieces of nonphotographic identification under Section</p> <p>13 63.0101(b)?</p> <p>14 A. Yes, sir.</p> <p>15 Q. Do you know what happened to HB 101?</p> <p>16 MS. DONNELLY: Objection. Form.</p> <p>17 You can answer.</p> <p>18 THE WITNESS: I'm sorry?</p> <p>19 MS. DONNELLY: I said, "Objection.</p> <p>20 Form." I'm not sure what the question's asking. If</p> <p>21 you think you know --</p> <p>22 A. I don't -- you want me to remember what</p> <p>23 happened to 101?</p> <p>24 Q. (BY MR. ROSENBERG) Yes.</p> <p>25 A. We pass -- we have an average of 7,000 bills</p>

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<p style="text-align: right;">33</p> <p>1 filed every session. We pass an average of about 700</p> <p>2 bills. That does not include all of the amendments,</p> <p>3 the amendments to the amendments, and resolutions. I</p> <p>4 honestly do not recall --</p> <p>5 Q. Was this a --</p> <p>6 A. -- the final outcome.</p> <p>7 Q. I'm sorry, I didn't mean to interrupt. Are</p> <p>8 you finished with your answer?</p> <p>9 A. I'm a bit embarrassed. My memory is not</p> <p>10 allowing me to recall exactly what happened, but I</p> <p>11 can -- if you want to give me time, I can call my</p> <p>12 staff and have them look back in the file and check</p> <p>13 and see.</p> <p>14 Q. We'll see. But right now, we're in the</p> <p>15 deposition, and I'll accept whatever answer your</p> <p>16 memory gives you at this point, okay?</p> <p>17 A. But I'm not opposed to checking and seeing</p> <p>18 for you.</p> <p>19 Q. Was this an important bill to you?</p> <p>20 A. Every bill I file is an important bill to me.</p> <p>21 Every bill I file is something that my constituents</p> <p>22 want me to move ahead with.</p> <p>23 (Riddle Exhibit 151 marked/introduced.)</p> <p>24 Q. (BY MR. ROSENBERG) Like to show you what's</p> <p>25 been marked as Riddle Exhibit 151.</p>	<p style="text-align: right;">35</p> <p>1 Q. I do, but I'm not a grandfather yet.</p> <p>2 A. You will be. Then you'll sympathize.</p> <p>3 Let's see. What date was this? 2007.</p> <p>4 Q. And just to refresh your recollection, is</p> <p>5 that the same date as HB 101?</p> <p>6 A. Let me look at 101.</p> <p>7 Y'all are here just testing my memory, aren't</p> <p>8 you?</p> <p>9 Q. No.</p> <p>10 A. Yes.</p> <p>11 Q. Okay. Was the subject matter of HB 218 the</p> <p>12 same as the subject matter of HB 101?</p> <p>13 A. I don't know. I have to look at it.</p> <p>14 Q. Please do.</p> <p>15 A. In just a quick cursory review, it appears --</p> <p>16 I don't want to sit here and take your time to read</p> <p>17 the whole thing word for word, but it appears to be on</p> <p>18 a similar track.</p> <p>19 Q. Now, were you the author of HB 218, or</p> <p>20 co-author?</p> <p>21 A. I was not the author, I was a joint author.</p> <p>22 Q. And can you tell me the circumstances under</p> <p>23 which you were either the author or co-author -- or</p> <p>24 joint author of two bills dealing with what appears to</p> <p>25 be the same subject matter?</p>
<p style="text-align: right;">34</p> <p>1 THE WITNESS: Can we see where the</p> <p>2 donuts are? I'm starving.</p> <p>3 MS. COHAN: They're right here.</p> <p>4 THE WITNESS: You can tell I focused. I</p> <p>5 apologize.</p> <p>6 (Discussion off the record.)</p> <p>7 Q. (BY MR. ROSENBERG) Was HB 101 passed into</p> <p>8 law?</p> <p>9 A. I -- I don't think so, but I've got to tell</p> <p>10 you, I do not -- I would have to go back to my files.</p> <p>11 We deal with so many bills, so many amendments, so</p> <p>12 many resolutions, that was so many years ago, I cannot</p> <p>13 remember the details on that. I do not believe it was</p> <p>14 passed, but I cannot tell you if it even came up</p> <p>15 before.</p> <p>16 Q. I have put before you now another exhibit,</p> <p>17 which was marked as 151, and it's HB No. 218.</p> <p>18 And I ask you if you're familiar with that</p> <p>19 document.</p> <p>20 A. Holy cow. Let me look at the date of this</p> <p>21 one.</p> <p>22 Were y'all informed that I'm a 65-year-old</p> <p>23 grandmother?</p> <p>24 Q. I'm a 64-year-old lawyer.</p> <p>25 A. Then you should give me a little sympathy.</p>	<p style="text-align: right;">36</p> <p>1 MS. DONNELLY: Objection. The question</p> <p>2 calls for information that would be covered by the</p> <p>3 legislative privilege.</p> <p>4 I'll instruct the witness not to answer.</p> <p>5 Q. (BY MR. ROSENBERG) And again, I'm asking you</p> <p>6 whether you -- well, first, I will again tell you, you</p> <p>7 have, under the court's order, the ability to testify</p> <p>8 under seal while still asserting the privilege or not</p> <p>9 to testify and assert the privilege.</p> <p>10 A. I'm declaring my legislative privilege, sir.</p> <p>11 Q. And you will not testify in response to that</p> <p>12 answer under seal -- response to that question under</p> <p>13 seal?</p> <p>14 A. No, sir.</p> <p>15 Q. No, sir, you will not?</p> <p>16 A. No, sir, I will not.</p> <p>17 Q. Turning to your attention to -- page 7 of</p> <p>18 this document.</p> <p>19 A. Oh, we're still on 218?</p> <p>20 Q. Yeah. I'm sorry, it's not page 7. Give me a</p> <p>21 second.</p> <p>22 Page 9 of the document.</p> <p>23 A. Yes, sir.</p> <p>24 Q. And I'd like you to look at 63.0101(a) 1, the</p> <p>25 paragraph that reads: "a driver's license or personal</p>

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<p style="text-align: right;">37</p> <p>1 identification card issued to the person by the</p> <p>2 Department of Public Safety that has not expired or</p> <p>3 that expired no earlier than two years before the date</p> <p>4 of presentation."</p> <p>5 Did I read that correctly?</p> <p>6 A. Yes, sir, you did.</p> <p>7 Q. Now, a few moments ago, you testified that</p> <p>8 HB 101, its paragraph dealing with driver's license,</p> <p>9 found acceptable driver's license issued by any state.</p> <p>10 Do you recall that?</p> <p>11 A. Uh-huh.</p> <p>12 Q. Do you agree that the paragraph I just read</p> <p>13 in HB 218 does not allow or find acceptable a driver's</p> <p>14 license issued by any state other than Texas?</p> <p>15 A. In that paragraph, it does not appear to be</p> <p>16 there.</p> <p>17 Q. Do you know the reason why that change was</p> <p>18 made between HB 101 and 218?</p> <p>19 A. Sir, I'm going to have to declare legislative</p> <p>20 privilege on that.</p> <p>21 Q. Can you tell me whether any analysis was done</p> <p>22 as to the acceptability of driver's license from any</p> <p>23 state or driver's license just from Texas between the</p> <p>24 time HB 101 was drafted and the time HB 218 was</p> <p>25 drafted?</p>	<p style="text-align: right;">39</p> <p>1 issued "in the United States"? And you can check</p> <p>2 that.</p> <p>3 A. Let me check it. Do you recall what line</p> <p>4 that was on?</p> <p>5 Q. It was on page 6, I believe.</p> <p>6 A. Now, what was your question?</p> <p>7 Q. Well, actually, let me -- I'm going to</p> <p>8 withdraw that question.</p> <p>9 Since you have HB 101 in front of you, which</p> <p>10 was a bill that you authored or were considered the</p> <p>11 author of, the phrase "a student identification card</p> <p>12 issued by a public or private institution of higher</p> <p>13 education that contains the person's photograph," was</p> <p>14 it your understanding that that was intended to cover</p> <p>15 any student identification card issued by any public</p> <p>16 or private institution anywhere in the United States?</p> <p>17 MS. DONNELLY: I'm going to object.</p> <p>18 That calls for legislative privilege.</p> <p>19 Instruct the witness not to answer. You</p> <p>20 can answer if you want to.</p> <p>21 A. I'm going to have to declare legislative</p> <p>22 privilege on that, sir.</p> <p>23 Q. (BY MR. ROSENBERG) And you will not testify</p> <p>24 even under seal?</p> <p>25 A. No, sir.</p>
<p style="text-align: right;">38</p> <p>1 MS. DONNELLY: I'm going to object.</p> <p>2 Calls for legislative privilege.</p> <p>3 A. I'm going to have to declare legislative</p> <p>4 privilege on that, sir.</p> <p>5 Q. (BY MR. ROSENBERG) And by the way, was HB 218</p> <p>6 drafted after HB 101?</p> <p>7 A. I do not know that, sir.</p> <p>8 Q. Does the number of the bills give you any</p> <p>9 hint in that regard?</p> <p>10 A. No, sir, it does not. The number of the bill</p> <p>11 comes -- is given when the author of the bill files</p> <p>12 the bill. It has absolutely no indication as to when</p> <p>13 the bill was drafted.</p> <p>14 Q. From your memory, do you recall whether</p> <p>15 HB 218 was drafted before or after HB 101?</p> <p>16 A. I have no idea, sir.</p> <p>17 Q. Turning your attention to the next page, in</p> <p>18 paragraph 6, it lists: "a student identification card</p> <p>19 issued by a public or private institution of higher</p> <p>20 education located in the United States that contains</p> <p>21 the person's photograph."</p> <p>22 Do you see that?</p> <p>23 A. Yes, sir.</p> <p>24 Q. Do you recall that HB 101, in dealing with</p> <p>25 student identification card, did not have the language</p>	<p style="text-align: right;">40</p> <p>1 (Riddle Exhibit 152 marked/introduced.)</p> <p>2 Q. (BY MR. ROSENBERG) I'd like to show you</p> <p>3 what's been marked as Exhibit 152 and ask you if</p> <p>4 you've seen this document before.</p> <p>5 A. That goes back to, what, 2009?</p> <p>6 Q. '09.</p> <p>7 A. I don't recall. I would have to read this.</p> <p>8 I don't recall.</p> <p>9 Q. Well, why don't you take a look at it, then.</p> <p>10 A. Oh, this is a senate bill.</p> <p>11 Q. Right. SB No. 362.</p> <p>12 A. Okay. Okay.</p> <p>13 Q. Having looked at it, does it refresh your</p> <p>14 recollection as to whether you've ever seen that</p> <p>15 document before?</p> <p>16 A. I don't remember. I don't recall seeing it,</p> <p>17 I don't recall either seeing it or not seeing it. I</p> <p>18 don't remember this document.</p> <p>19 Q. Okay.</p> <p>20 (Riddle Exhibit 153 marked/introduced.)</p> <p>21 Q. (BY MR. ROSENBERG) Let me show you what's</p> <p>22 been marked as Exhibit 153 and ask you if you've ever</p> <p>23 seen this document before.</p> <p>24 A. That's another senate bill.</p> <p>25 Q. And I just noticed that there's a last page</p>

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11 (Pages 41 to 44)

<p style="text-align: right;">41</p> <p>1 of this document that was actually from an exhibit at 2 your previous deposition which doesn't really belong 3 with this document. And I don't care if it's included 4 or not for record purposes, but we don't -- that is 5 not what I'm asking you about. 6 A. Okay. Not read every word of this, but I've 7 quickly glanced at it, sir. 8 Q. And have you seen this before? This is 9 SB 14. 10 A. I cannot tell you the time or the date that I 11 have seen it. I suspect I may have, but I cannot 12 recall exactly when. 13 Q. Are you aware of a bill called SB 14? 14 A. I believe that that was our voter photo ID 15 bill, sir. 16 Q. And did you support the voter photo ID bill? 17 A. Yes, sir, I did, sir. 18 Q. I'd like to turn your attention to page 9 of 19 the document. 20 A. Uh-huh. 21 Q. Section 63.0101, "Documentation of Proof of 22 Identification. The following documentation is an 23 acceptable form of photo identification under this 24 chapter." 25 Did I read that correctly?</p>	<p style="text-align: right;">43</p> <p>1 form of driver's license was a driver's license issued 2 by any state? 3 A. Yes, sir. 4 Q. And also under HB 101, an acceptable form of 5 driver's license was a driver's license that had not 6 expired within two years; is that correct? 7 A. Yes, sir. That's what it says in 101. 8 Q. And you agree that in SB 14, the acceptable 9 form of driver's license was limited to driver's 10 licenses issued by the Texas Department of Public 11 Safety; is that correct? 12 A. What line is that on? Is that on page 9? 13 Q. Yes. Yes, it is. 14 A. Under what -- 15 Q. Under 63.0101(a)(1). 16 A. Yes, sir. 17 Q. And was limited to driver's licenses that had 18 expired -- that had not expired no earlier than 60 19 days before the date of presentation; is that correct? 20 A. Yes, sir. 21 Q. Can you tell me what analysis, if any, had 22 been done as to whether or not a driver's license 23 issued by -- 24 A. I'm going to have to declare legislative 25 privilege on that, sir.</p>
<p style="text-align: right;">42</p> <p>1 A. Yes, sir. 2 Q. "(1) a driver's license, election 3 identification certificate, or personal identification 4 card issued to the person by the Department of Public 5 Safety that has not expired or that expired no earlier 6 than 60 days before the date of presentation." 7 Did I read that correctly? 8 A. Yes, sir. 9 Q. Now, you agree that that paragraph dealing 10 with driver's license as an acceptable form of 11 identification is different than the paragraph dealing 12 with driver's license as an acceptable form of 13 identification in HB 101 and HB 218 which we looked at 14 a few minutes ago; is that correct? 15 A. I'd have to look at it again, but if you say 16 it's not the same, I'll take your word for it. 17 Q. Do you recall that, for example, in HB 101, 18 driver's licenses could be issued by any state? 19 A. I'd have to look to see. I'm looking for the 20 driver's license -- 21 Q. Page 6 of HB 101. 22 A. Okay. 23 Okay. Now, what was your question, again? 24 Q. Sure. 25 Do you recall that in HB 101, an acceptable</p>	<p style="text-align: right;">44</p> <p>1 Q. And I appreciate that, but I'd also 2 appreciate it if you'd let me finish the question so 3 that the record's clear as to what the question was 4 before you assert the privilege. Okay? "Yes?" 5 A. Yes. 6 Q. Thank you. 7 Are you aware if any analysis was done as to 8 whether or not -- as to why a -- why the change was 9 made from what you had proposed in HB 101 to what was 10 proposed in SB 14 as to the standards for driver's 11 license? 12 A. I'm going to need to declare legislative 13 privilege on that, sir, respectfully. 14 Q. And you will not testify even under seal; is 15 that correct? 16 A. I'm going to have to respectfully decline to 17 answer that under legislative privilege, sir. 18 Q. Do you recall any discussions with any 19 legislators concerning the specific standards that 20 were set forth in SB 14 on page 9 under 63.0101(a)(1)? 21 A. Sir, I'm going to have to respectfully 22 declare legislative privilege on that, sir. 23 Q. Do you have an understanding in your own mind 24 as to the basis for the change as between what was in 25 HB 101 and SB 14 as to driver's licenses?</p>

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<p style="text-align: right;">57</p> <p>1 MR. SCOTT: No, I appreciate -- Deuel, 2 thank you for speaking up when you did. 3 MR. ROSS: No worries. I stepped away, 4 so that was all I heard. 5 MS. DONNELLY: Okay. Thank you. 6 (Riddle Exhibit 154 marked/introduced.) 7 Q. (BY MR. ROSENBERG) Okay. Back on the record, 8 I'd like to have this marked as Exhibit 154. 9 Ask you if you've seen that. 10 A. Okay. This is 2012. 11 Yes, sir. 12 Q. And what is this? 13 A. It is House Bill 16, sir. 14 Q. And were you the author of it? 15 A. Yes, sir. 16 Q. And do you recall it? 17 A. I would need to review it to recall details 18 of it; but, yes, sir, I recall it. 19 Q. And was this bill submitted during the same 20 legislative session as the bill that became SB 14? 21 A. Yes, sir, I believe so. Let me see. Let me 22 double-check this. 23 Q. Sure. 24 A. Yes, sir. 25 Q. And turn your attention to page 5, Section</p>	<p style="text-align: right;">59</p> <p>1 A. Same objection. 2 Q. (BY MR. ROSENBERG) Turning your attention to 3 paragraph 3 on page 6. 4 A. Yes, sir. 5 Q. "A valid employee identification card that 6 contains the person's photograph and is issued by an 7 employer of the person in the ordinary course of the 8 employer's business..." 9 Do you see that? 10 A. Yes, sir. 11 Q. And that was language that you thought was 12 acceptable as a form of identification? 13 A. Yes, sir. 14 Q. Do you know whether or not that provision 15 found its way into SB 14? 16 A. I would have to look, sir -- 17 Q. You may look. 18 A. -- to see if it's there. If it's there, do 19 you know where it is? 20 Q. I can tell you that it's not there. 21 A. Okay. Then I'll take your word for it, sir. 22 Q. Do you know whether or not any analysis was 23 done by anyone in the legislature as to why a valid 24 employee identification card was not included in 25 SB 14?</p>
<p style="text-align: right;">58</p> <p>1 63.0101(a), looking first at No. 1, "a driver's 2 license or personal identification card issued to the 3 person by the Department of Public Safety or the 4 equivalent agency of another state that has not 5 expired or that expired no earlier than two years 6 before the date of presentation..." 7 Do you see that? 8 A. Yes, sir. 9 Q. Now, that has a broader form of driver's 10 license that is acceptable than SB 14; is that 11 correct? 12 A. Yes, sir. 13 Q. Do you understand why there was a change 14 between your bill, HB 16, and the bill that became 15 SB 14? 16 MS. DONNELLY: Objection. That calls 17 for information covered by legislative privilege. 18 A. I'm going to have to declare my legislative 19 privilege on that, sir. 20 Q. (BY MR. ROSENBERG) Do you know if any 21 analysis was done by anyone in the legislature 22 concerning changing your -- the standard for 23 acceptable driver's license in HB 16 to what became 24 SB 14? 25 MS. DONNELLY: Same objection.</p>	<p style="text-align: right;">60</p> <p>1 MS. DONNELLY: Objection. Calls for 2 information covered by legislative privilege. 3 A. I declare my legislative privilege on that, 4 sir. 5 Q. (BY MR. ROSENBERG) Do you have an 6 understanding as to why a valid employee 7 identification card was not included in SB 14? 8 MS. DONNELLY: Same objection. 9 A. Same objection, sir. 10 Q. (BY MR. ROSENBERG) Turning your attention to 11 paragraph 6: "a student identification card issued by 12 a public or private institution of higher education 13 that contains the person's photograph." 14 A. Yes, sir. 15 Q. And you felt that was an acceptable form of 16 identification for voting under HB 16, of which you 17 were the author; is that correct? 18 A. It was in my bill, sir, yes, sir. 19 Q. Do you know whether that found its way into 20 SB 14? 21 A. I'm going to guess from your body language 22 and your statement that it probably isn't. Is that 23 the case? 24 Q. I'm not sure my body language changed, but my 25 statement did. It is not in SB 14.</p>

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<p style="text-align: right;">61</p> <p>1 A. Then I will accept your body language and 2 your statement, sir. 3 Q. Do you know whether anyone in the legislature 4 did any sort of analysis as to -- 5 A. I'm going to have -- 6 Q. -- why student identification was not an 7 acceptable form of identification under SB 14? 8 A. I'm going to answer that to my knowledge, I 9 don't really know. I would say probably not, but I 10 don't really know. 11 Q. Probably not what? Probably not that there 12 was any analysis done, is that what you're saying? 13 A. Between the two bills. 14 Q. Right. 15 A. I tend to doubt it. 16 Q. Do you know if there ever was any analysis 17 done as to whether or not a student identification 18 card is an acceptable form of identification for 19 purposes of voting? 20 MS. DONNELLY: Object. That covers -- 21 that's covered by legislative privilege. 22 A. Let me answer that. 23 As a general rule in the legislature, a bill 24 analysis is always done on each individual bill. But 25 I'm not aware of an analysis that is done in comparing</p>	<p style="text-align: right;">63</p> <p>1 yes. 2 Q. Do you know why that was not included in 3 SB 14? 4 A. No, sir, I don't. 5 Q. Do you know whether any analysis was done as 6 to whether or not that should be included in SB 14 -- 7 MS. DONNELLY: Objection. 8 Q. (BY MR. ROSENBERG) -- by anyone in the 9 legislature? 10 MS. DONNELLY: Calls for legislative 11 privilege. 12 A. Once again, the -- it's got to be the same 13 answer. Very rarely is an analysis done between two 14 bills. There's always a bill analysis of one bill, a 15 bill analysis of another bill. But analyzing from one 16 to the other, I'm unaware of that, sir. 17 Q. (BY MR. ROSENBERG) Well, leaving aside 18 comparing two bills, do you know whether or not any 19 analysis was done as to whether or not an 20 identification card issued by a state agency of Texas 21 that contained the person's photograph could be an 22 acceptable form of identification for purposes of 23 voting in Texas? 24 MS. DONNELLY: Objection. Calls for 25 legislative -- information covered by legislative</p>
<p style="text-align: right;">62</p> <p>1 bills. It may have occurred, but I'm not aware of it, 2 sir. 3 Q. (BY MR. ROSENBERG) Looking at paragraph 8 in 4 HB 16, it says: "an identification card issued by a 5 state agency of this state that contains the person's 6 photograph..." 7 Do you see that? 8 A. In paragraph 8? 9 Q. Yeah. 10 A. What page is this? 11 Q. I'm sorry, page 6 of HB 16. 12 A. Of HB 16. Okay. I'm on the wrong one. 13 Paragraph 8 on -- on page 16. I don't have a 16. 14 Q. You might be looking at -- 15 A. I'm looking at House Bill 16. What house 16 bill are you talking about? 17 Q. I'm sorry, paragraph 8, page 6. Paragraph 8. 18 A. Okay. I'm sorry. Yes, sir, paragraph 8 of 19 House Bill 16. 20 Q. And you, as the author of HB 16, believe that 21 an identification card issued by a state agency of 22 this state containing the person's photograph was an 23 acceptable form of identification for purposes of 24 voting; is that correct? 25 A. It is contained within my bill there, sir,</p>	<p style="text-align: right;">64</p> <p>1 privilege. 2 A. Legislative privilege, I declare, sir. 3 Q. (BY MR. ROSENBERG) Looking at paragraph 9 of 4 HB 16, it says: "a valid identification card that 5 contains the person's photograph and is issued by (A) 6 an agency or institution of the federal government; or 7 (B) an agency, institution, or political subdivision 8 of this state." 9 Do you see that? 10 A. On page 9? 11 Q. Page 6, paragraph 9. 12 A. Oh, I'm sorry. 13 Q. Towards the bottom. 14 A. Okay. "A valid identification card that 15 contains the person's photograph issued by an agency 16 or institution of the federal government." 17 Yes, sir, I see that. 18 Q. And you believe that was an acceptable form 19 of identification for purposes of voting as set forth 20 in HB 16, which you authored? 21 A. That was in my bill, sir. 22 Q. And you believe it was an acceptable form of 23 identification for purposes of voting? 24 A. Yes, sir, at that time, I felt that. 25 Q. And when you say "at that time," did you</p>

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<p style="text-align: right;">65</p> <p>1 change your mind on that?</p> <p>2 A. I've not given it a great deal of thought,</p> <p>3 sir.</p> <p>4 Q. Do you know whether any analysis was done as</p> <p>5 to whether a valid identification card issued by an</p> <p>6 agency or institution of the federal government or the</p> <p>7 state is an acceptable form of identification for</p> <p>8 purposes of voting?</p> <p>9 A. I'm unaware of any such analysis. It may</p> <p>10 have occurred, but I'm not aware of it, sir.</p> <p>11 Q. Now, turning to page 7 of HB 16, a bill which</p> <p>12 you authored, included several forms of</p> <p>13 nonphotographic identification that could be used to</p> <p>14 verify a person's identification at the -- identity at</p> <p>15 the polling place; is that correct?</p> <p>16 A. Yes, sir.</p> <p>17 Q. And I'll represent to you that -- well,</p> <p>18 strike that.</p> <p>19 Do you know whether SB 14 included</p> <p>20 nonphotographic identification forms?</p> <p>21 A. Once again, by your body language and</p> <p>22 question, I'll assume that there's -- that it's not in</p> <p>23 there. I don't know. I'd have to read it and look</p> <p>24 and see.</p> <p>25 Q. Okay. Assuming it's not in there -- and I</p>	<p style="text-align: right;">67</p> <p>1 analysis as to whether the voters were more or less</p> <p>2 likely to possess any specific form of photographic</p> <p>3 ID?</p> <p>4 MS. DONNELLY: Objection. Calls for</p> <p>5 information covered by legislative privilege.</p> <p>6 A. I declare my legislative privilege on that,</p> <p>7 sir.</p> <p>8 Q. (BY MR. ROSENBERG) At any time during your</p> <p>9 support of the various pieces of legislation leading</p> <p>10 up to the enactment of SB 14, did you become aware of</p> <p>11 any facts concerning whether voters were more or less</p> <p>12 likely to possess any sorts of photo ID?</p> <p>13 MS. DONNELLY: Objection. Calls for</p> <p>14 information covered by legislative privilege.</p> <p>15 Q. (BY MR. ROSENBERG) Do you think it's</p> <p>16 important as to whether voters perform -- possess</p> <p>17 certain forms of identification as compared to others?</p> <p>18 A. The -- you're asking for my opinion, sir?</p> <p>19 Q. Yes, I am.</p> <p>20 A. And what is your question again?</p> <p>21 Q. Whether you think it's important as to</p> <p>22 whether voters possess certain forms of identification</p> <p>23 as compared to others.</p> <p>24 MS. DONNELLY: I'm going to object.</p> <p>25 Calls for information covered by legislative</p>
<p style="text-align: right;">66</p> <p>1 will represent to you it's not in there --</p> <p>2 A. Okay.</p> <p>3 Q. -- do you have an understanding as to why</p> <p>4 it's not in there?</p> <p>5 A. No, sir.</p> <p>6 Q. Do you know whether any analysis was done by</p> <p>7 anyone in the legislature as to whether or not</p> <p>8 nonphotographic identification should be in a bill</p> <p>9 dealing with identification at the polling place?</p> <p>10 A. I'm unaware of any such. It may have</p> <p>11 occurred, but not to my knowledge.</p> <p>12 Q. At any time during your support for the</p> <p>13 various photo identification bills leading up to the</p> <p>14 passage of SB 14, did you ask anyone to undertake an</p> <p>15 analysis as to whether voters were more or less likely</p> <p>16 to possess certain forms of identification as compared</p> <p>17 to others?</p> <p>18 MS. DONNELLY: Objection. Calls for</p> <p>19 information covered by legislative privilege.</p> <p>20 A. Yes, I declare my legislative privilege with</p> <p>21 that.</p> <p>22 Q. (BY MR. ROSENBERG) At any time during your</p> <p>23 support for the various photo identification bills</p> <p>24 leading up to the passage of SB 14, were you aware</p> <p>25 whether any legislator asked anyone to undertake an</p>	<p style="text-align: right;">68</p> <p>1 privilege.</p> <p>2 It's up to you if you want to answer the</p> <p>3 question.</p> <p>4 A. You're asking my opinion if some forms of</p> <p>5 voter ID are preferable over other forms of voter ID?</p> <p>6 Q. No. Let me ask you whether you think it's</p> <p>7 important as to whether voters possess certain forms</p> <p>8 of ID as compared to other forms of ID.</p> <p>9 A. Yes, sir.</p> <p>10 Q. And why do you think it's important?</p> <p>11 MS. DONNELLY: Same objection.</p> <p>12 You can answer if you'd like to.</p> <p>13 A. It is critically important for us to maintain</p> <p>14 the integrity of the ballot box and for the voters to</p> <p>15 have 100 percent confidence in the integrity of the</p> <p>16 ballot box. If a simple form of ID that basically</p> <p>17 anybody could manufacture or say, like, a library card</p> <p>18 is acceptable but really not something that would be a</p> <p>19 strong form of ID, that could put the integrity of the</p> <p>20 ballot box at risk.</p> <p>21 Having the stronger forms of ID that are</p> <p>22 acceptable in all of the other areas of government,</p> <p>23 like what is necessary to cash a welfare check, or a</p> <p>24 form of ID that is necessary to get into a courthouse,</p> <p>25 or a form of ID that is necessary to get on a plane,</p>

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18 (Pages 69 to 72)

<p style="text-align: right;">69</p> <p>1 those are forms of ID that I think the public has</p> <p>2 confidence in and therefore ensures the integrity of</p> <p>3 the ballot box.</p> <p>4 My primary concern is, was and will continue</p> <p>5 to be maintaining and securing the integrity of the</p> <p>6 ballot box, sir.</p> <p>7 Q. (BY MR. ROSENBERG) What forms of ID are</p> <p>8 acceptable to get into a courthouse?</p> <p>9 A. Are you asking me or them?</p> <p>10 Q. You.</p> <p>11 A. Oh. You were looking at them.</p> <p>12 My daughter is a judge, and even I have to</p> <p>13 present my driver's license or a picture ID in order</p> <p>14 to get into the courthouse. That is my understanding.</p> <p>15 Q. Do you know whether a student identification</p> <p>16 card with a photograph issued by a public university</p> <p>17 is acceptable to get into a courthouse?</p> <p>18 A. Been a long time since I've been a student.</p> <p>19 I've not checked that out, sir. I don't know.</p> <p>20 Q. Do you know whether an employee</p> <p>21 identification card issued by a state or federal</p> <p>22 agency is acceptable to get into a courthouse?</p> <p>23 A. I will be happy to clarify and check. I can</p> <p>24 give you an educated guess, but I'd rather not do</p> <p>25 that. I think my educated guesses would probably be</p>	<p style="text-align: right;">71</p> <p>1 Q. Do you think it would have been appropriate</p> <p>2 for the legislature to pass a bill making it a</p> <p>3 requirement to show an ID in order to vote that</p> <p>4 African-Americans were less likely to possess than</p> <p>5 white people?</p> <p>6 MS. DONNELLY: Object to the form of the</p> <p>7 question.</p> <p>8 You can answer if you understand it.</p> <p>9 A. I don't understand your question.</p> <p>10 Q. (BY MR. ROSENBERG) Sure. What don't you</p> <p>11 understand about it?</p> <p>12 A. I don't understand your question period. Are</p> <p>13 you asking us to discriminate?</p> <p>14 Q. No, I'm asking you whether you think it would</p> <p>15 be appropriate for the legislature to pass a statute</p> <p>16 that required certain identification for purposes of</p> <p>17 voting which were less likely to be possessed by</p> <p>18 African-Americans than by white people.</p> <p>19 MS. DONNELLY: Object to the form of the</p> <p>20 question.</p> <p>21 A. Sir, my best friend is a black woman. She</p> <p>22 would be highly insulted if I had anything to do with</p> <p>23 passing a law that would demean and discriminate and</p> <p>24 say that black people had less intelligence or less</p> <p>25 ability to do anything, including voting. I would not</p>
<p style="text-align: right;">70</p> <p>1 about 98 percent right, but I would feel a lot more</p> <p>2 comfortable giving you 100 percent clarified answer on</p> <p>3 that. So I can, at our next break, call my daughter</p> <p>4 and make sure that what I think is correct is, in</p> <p>5 fact, 100 percent accurate.</p> <p>6 Q. Do you know what kind of identification is</p> <p>7 acceptable to board a plane?</p> <p>8 A. Well, recently, my husband and I flew to Guam</p> <p>9 for a special memorial trip to Iwo Jima, and my</p> <p>10 husband and I fly to Israel frequently. We're very</p> <p>11 supportive of Israel. And every time we board a</p> <p>12 plane, I know that when we go out of the country, we</p> <p>13 have to show our passport and usually our -- our</p> <p>14 driver's license here in the States, if it's a local.</p> <p>15 If it's a local flight.</p> <p>16 Q. Do you know if there are other forms of</p> <p>17 identification that are acceptable for domestic</p> <p>18 flights?</p> <p>19 A. Once again, I believe that there are, but I</p> <p>20 don't want to give you a very good educated guess. I</p> <p>21 would prefer checking that out and giving you what I</p> <p>22 consider 100 percent accurate. I think that my</p> <p>23 educated guess would be 100 percent on target, but I</p> <p>24 really don't like guessing. I prefer to do a quick</p> <p>25 verification and I'll be happy to answer that.</p>	<p style="text-align: right;">72</p> <p>1 insult my best friend, nor would I insult the black</p> <p>2 members of my community or the people throughout Texas</p> <p>3 who God gave skin that is the color of black.</p> <p>4 Q. (BY MR. ROSENBERG) That wasn't my question.</p> <p>5 My question was whether you think it would be</p> <p>6 appropriate for the legislature to pass a bill</p> <p>7 requiring certain identification that would be less</p> <p>8 likely -- in order to vote that would be less likely</p> <p>9 to be possessed by African-Americans than by white</p> <p>10 people.</p> <p>11 MS. DONNELLY: Object to the form of the</p> <p>12 question.</p> <p>13 THE WITNESS: I guess I'm not</p> <p>14 understanding his question. Is he saying that black</p> <p>15 people should not have the same responsibility as</p> <p>16 everybody else?</p> <p>17 A. I think everybody is intelligent enough to</p> <p>18 understand how to vote and what to do. I'm not about</p> <p>19 to say that one group is less than another group. I</p> <p>20 don't think you would either.</p> <p>21 Q. (BY MR. ROSENBERG) Well, leading up to the</p> <p>22 passage of SB 14, were you aware that legislators said</p> <p>23 there were certain forms of identification that</p> <p>24 African-Americans or Hispanics would be less likely to</p> <p>25 possess than white people?</p>

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19 (Pages 73 to 76)

<p style="text-align: right;">73</p> <p>1 MS. DONNELLY: Objection to the form of 2 the question. 3 He's only asking if you're aware. 4 A. Yes, I am aware that there were some 5 legislators that were making that claim. 6 Q. (BY MR. ROSENBERG) Did you undertake any 7 investigation into that point? 8 MS. DONNELLY: Objection. Calls for 9 information covered by legislative privilege. 10 A. I'm going to declare my legislative privilege 11 on that, sir. 12 Q. (BY MR. ROSENBERG) Did those assertions occur 13 in the course of public debate? 14 A. Yes, sir. 15 Q. In the context of the public debate, was 16 there any response to those assertions? 17 A. I don't recall. 18 Q. Do you know whether the legislature undertook 19 any analysis as to whether those assertions were true 20 or false? 21 MS. DONNELLY: Object. That calls for 22 information covered by legislative privilege. 23 A. I'm going to declare my legislative privilege 24 on that, sir. 25 Q. (BY MR. ROSENBERG) Are you aware that in the</p>	<p style="text-align: right;">75</p> <p>1 MS. DONNELLY: Objection. Calls for 2 information covered by legislative privilege. 3 A. I'm going to declare my legislative privilege 4 on that, sir. 5 Q. (BY MR. ROSENBERG) Do you understand that 6 there is a cost to obtaining some of the underlying 7 documentation necessary to get the photo ID required 8 by SB 14? 9 MS. DONNELLY: Objection. Form of the 10 question. 11 You can answer if you understand. 12 A. It is my understanding, sir, that there is no 13 cost, or the cost is very, very minimal. 14 Q. (BY MR. ROSENBERG) What do you consider 15 minimal? 16 A. I think it's less than \$10. 17 Q. Do you agree that, for some people, paying 18 less than \$10 is not minimal? 19 A. I believe that -- I think you can get a photo 20 ID at no cost. I think that you can do that through 21 DPS. 22 Q. Can you get it without a birth certificate? 23 A. They have to have some form of 24 identification, sir, to show that you are who you say 25 you are.</p>
<p style="text-align: right;">74</p> <p>1 time leading up to the passage of SB 14, legislators 2 stated in the public record that there would be 3 certain burdens in obtaining the identification 4 required by SB 14 that would fall more heavily on 5 African-Americans and Hispanics than on whites? 6 MS. DONNELLY: Objection to form of the 7 question. 8 He's only asking if you're aware. 9 A. I am aware, but I will be able to tell you 10 that some of my black constituents that I visited with 11 found those comments objectionable and insulting. 12 Q. (BY MR. ROSENBERG) How many of your black 13 constituents did you speak to about that? 14 A. I would say, I don't know, five or six. 15 Q. Who were they? 16 A. I don't recall all their names. At various 17 town hall meetings, they speak up. 18 Q. Do you recall any of their names? 19 A. No, sir. 20 Q. Other than your discussing this with five or 21 six constituents, did you undertake any analysis of 22 the issue as to whether or not the burdens of 23 obtaining the documentation set forth in SB 14 in 24 order to vote would fall more heavily on 25 African-Americans and Hispanics than on whites?</p>	<p style="text-align: right;">76</p> <p>1 Q. And that form of identification includes a 2 birth certificate? 3 A. That is -- likely is not one of the forms. 4 Q. Do you know whether, if a person does not 5 have a birth certificate, it costs money to get a 6 birth certificate? 7 A. If that individual is elderly, then the photo 8 ID, from my understanding, does not apply to them. 9 And the vast majority, from my understanding, which 10 I've not done research on this, but it's from just my 11 personal observation, that the vast majority of people 12 who do not have birth certificates tend to be those 13 that are elderly, and the voter photo ID excludes 14 those, sir, that I think are 65 and older. 15 Q. And that they could vote at the polling place 16 or that they could vote by absentee ballot under those 17 circumstances? 18 A. I would need to look at and see, but I do not 19 think that the voter photo ID applies to them at -- I 20 would need to review that, but I don't think that's 21 the case. 22 Q. And if one is not elderly and has to obtain a 23 election identification card, that person would need a 24 birth certificate; is that correct? 25 A. I believe that that's probably one of the</p>

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22 (Pages 85 to 88)

<p style="text-align: right;">85</p> <p>1 A. I'm not willing to acknowledge that that's 2 even the case. I think that you're making a statement 3 there that I don't think is necessarily accurate. 4 Q. Have you analyzed -- well, strike that. 5 Are you aware of any analysis of the relative 6 burden of getting a photo ID on certain ethnic groups 7 as opposed to others? 8 MS. DONNELLY: Objection. Calls for 9 information covered by legislative privilege. 10 A. Ask that question again. 11 MR. ROSENBERG: Sure. 12 Can you read it back, please? 13 THE REPORTER: "Are you aware of any 14 analysis of the relative burden of getting a photo ID 15 on certain ethnic groups as opposed to others?" 16 A. No. 17 Q. (BY MR. ROSENBERG) Is it your testimony that 18 a -- a low-income person who has to take time off from 19 work and drive or take public transportation for, give 20 you an example, say, 90 minutes in order to get the 21 photo ID under SB 14 is not feeling a burden? 22 MS. DONNELLY: Objection. Form of the 23 question. 24 You can answer. 25 A. Once again, it is not easy for anyone who has</p>	<p style="text-align: right;">87</p> <p>1 I can't tell you off the top of my head the 2 information -- specific information that they had, but 3 I do know that there was information that caused for 4 concern. 5 Q. (BY MR. ROSENBERG) When you say there was 6 information that caused for concern, what sort of 7 information are you talking about? 8 A. Information regarding concern regarding voter 9 fraud. 10 Q. When you say "voter fraud," what are you 11 talking about? 12 A. Voter fraud. 13 Q. Are you talking about all kinds of voter 14 fraud or -- 15 A. Various -- various types of voter fraud, sir. 16 Q. What various types are you talking about? 17 A. People that were voting fraudulently. 18 Q. When they were voting fraudulently, how were 19 they voting fraudulently? 20 A. Those are the details that I do not -- I 21 don't recall exactly, but I can go get that 22 information, I can obtain information regarding that. 23 I was receiving -- I was aware of information coming 24 in. 25 It would be dishonest for me to say that I</p>
<p style="text-align: right;">86</p> <p>1 a job to necessarily take time off in order to get 2 their driver's license renewed or get a driver's 3 license or get a photo ID or even to go vote. We have 4 a lot of early voting that people can take advantage 5 of and voting on the weekends, but the vast majority 6 of Americans and Texans that I know consider it a 7 privilege to be able to make their voice heard. They 8 don't consider it a burden, sir, they consider it a 9 privilege for which people have died. 10 Why were you asking my comments to be 11 striked? Did you not like them? 12 Q. (BY MR. ROSENBERG) I can't answer questions. 13 You have to answer the questions. 14 THE WITNESS: I don't think he should 15 have disliked my comments. 16 Q. (BY MR. ROSENBERG) During the time leading up 17 to the passage of SB 14, are you aware of any analysis 18 as to whether or not there was in-person voting fraud 19 in Texas? 20 MS. DONNELLY: Objection. Calls for 21 information covered by legislative privilege. 22 A. I'm going to have to answer that, 23 respectfully, and the reason is because my husband was 24 the chairman of the ballot security for the Harris 25 County Republican Party.</p>	<p style="text-align: right;">88</p> <p>1 was unaware of anything, because my husband was the 2 chairman of ballot security for Harris County 3 Republican Party. 4 Q. Were you aware of any specific instances of 5 in-person voter fraud? 6 A. I don't recall the specifics, but I do recall 7 that there were issues. 8 Q. When you say there were issues, are you 9 talking about issues of in-person voter fraud or voter 10 fraud generally? 11 A. I would have to go back to get that 12 information, sir. 13 Q. And where would you get that information? 14 A. I would need to go get that information from 15 Harris County Republican Party. 16 Q. And during what time frame are you -- 17 A. I would also have to get it from Elizabeth 18 Englebreth, who had the voter -- I forget the 19 organization. 20 Q. Is Elizabeth Englebreth different than 21 Catherine Englebreth? 22 A. I'm sorry, Catherine Englebreth. Let me 23 correct that, Catherine Englebreth. 24 Q. First of all, what time frame are we talking 25 about? When -- this information covers what time</p>

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<p style="text-align: right;">97</p> <p>1 couldn't say my own name and my face was paralyzed. 2 But I figured out a way to communicate, even though my 3 face was paralyzed. 4 And so I think almost everybody, at some 5 point in their life, has had one difficulty or 6 another, and certainly not all are pleasant. 7 Q. (BY MR. ROSENBERG) Sticking with the negative 8 side of discrimination, do you agree that, in the 9 past, Texas legislators have enacted legislation that 10 was discriminatory against certain minority groups? 11 MS. DONNELLY: Objection to the form of 12 the question. 13 You can answer if you understand. 14 A. I'm not aware of any pieces of legislation 15 that have passed in recent history to that. That may 16 have happened back in the 1800s, but I'm not aware of 17 anything specific. 18 What are you referring to? 19 Q. (BY MR. ROSENBERG) Do you have any 20 understanding of legislation in the 20th Century 21 dealing with poll taxes for voting? 22 A. I was a very little girl when there was poll 23 tax. I remember it vaguely as a little girl, but I 24 don't have any working knowledge or working memory of 25 it.</p>	<p style="text-align: right;">99</p> <p>1 legislators have attempted to pass any type of 2 legislation with the intent of discriminating. 3 Q. But if they intended to discriminate, would 4 you expect them to state so expressly? 5 A. That's a hypothetical, sir, that I can't 6 really answer, because I'm -- there's -- there's no 7 practical reality to what it is you're trying to get 8 me to agree to. That's -- I've been there 14 years, 9 and I've not seen any type of legislation that would 10 come under that type of definition. 11 Q. In your mind, is there a connection between 12 the various photo identification bills and whether 13 noncitizens are voting? 14 A. What is your question? 15 Q. Sure. 16 In your mind, is there a connection between 17 the various photo identification bills which you've 18 supported and whether illegal immigrants are voting? 19 A. I think that -- that there could be a very 20 strong possibility that those who are not here legally 21 may attempt to vote. And once again, the purpose for 22 the bills that we have passed regarding voter photo 23 ID, the one sole reason for that is to maintain the 24 integrity of the ballot box, regardless of who it is, 25 whether they're a citizen or whether they're here</p>
<p style="text-align: right;">98</p> <p>1 Q. Do you have an understanding -- 2 A. I might be a grandmother, but I'm not that 3 old. 4 Q. Do you have an understanding as to whether 5 poll taxes were discriminatory? 6 A. I suspect they may have been. 7 Q. Do you think that -- do you have an 8 understanding as to whether or not the legislature 9 expressly stated in poll tax legislation that their 10 intent was to discriminate? 11 A. I've not read that part, so I can't tell you 12 firsthand. I've not read that legislation. That was 13 a long, long time ago, sir. 14 Q. If legislators did intend to discriminate 15 with a piece of legislation, discriminate against a 16 group, say, would you expect them to state so 17 expressly? 18 A. If at that point in time in history -- I 19 can't tell you what the legislators were thinking. I 20 was -- was I even born when they did that? What year 21 was that? 22 Q. Well, let's say now, if legislators intended 23 to discriminate with a piece of legislation, would you 24 expect them to state so expressly? 25 A. I'm not aware of any time that any</p>	<p style="text-align: right;">100</p> <p>1 legally or illegally or whatever. It's to make sure 2 that the integrity of the ballot box is maintained. 3 Q. You've used this phrase before. What do you 4 mean by "integrity of the ballot box"? 5 A. Integrity means something that is assured. 6 If a building maintains its structural integrity, then 7 that means that building is standing straight and 8 strong. If the integrity of the building has been 9 compromised, then that means that building could 10 collapse on itself or the building could become 11 dangerous for anybody that might be in the building. 12 Integrity means a -- a straight, strong to 13 where the -- the purpose, the strength, the plumb line 14 has not been compromised. 15 Q. And is it your testimony that the integrity 16 of the ballot box in Texas was compromised by 17 in-person voter fraud? 18 MS. DONNELLY: Objection. Information 19 is covered -- sought by that question is covered by 20 legislative privilege. 21 A. For anyone to say that there has not ever 22 been any instance of voter fraud in the state of 23 Texas, I think that individual would be naive. 24 Q. (BY MR. ROSENBERG) Are you not asserting 25 privilege?</p>

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26 (Pages 101 to 104)

<p style="text-align: right;">101</p> <p>1 A. I'm asserting privilege.</p> <p>2 Q. So you're not answering the question, then?</p> <p>3 A. No, sir.</p> <p>4 MR. ROSENBERG: Well, I have some more</p> <p>5 questions. Let's go off the record.</p> <p>6 (Discussion off the record.)</p> <p>7 Q. (BY MR. ROSENBERG) Representative Riddle, are</p> <p>8 you aware that the governor declared a need for</p> <p>9 emergency legislation concerning SB 14 in 2012?</p> <p>10 A. I don't recall that. He may have, but I</p> <p>11 don't recall.</p> <p>12 Q. So you don't recall that SB 14 was listed as</p> <p>13 a piece of emergency legislation?</p> <p>14 A. No. It -- it kind of -- I sort of have a</p> <p>15 vague memory of it, now that you mention it. I'd need</p> <p>16 to go back in my file and look. If you'd asked me</p> <p>17 about did he do that, I'd have to say I don't know.</p> <p>18 But now that you say that, it triggers a bit of a</p> <p>19 memory. It's a vague memory.</p> <p>20 Q. That's a procedure in Texas of a governor</p> <p>21 having the power to declare a certain legislation,</p> <p>22 emergency legislation?</p> <p>23 A. The governor can put a high priority on</p> <p>24 things.</p> <p>25 Q. Do you have an understanding as to why the</p>	<p style="text-align: right;">103</p> <p>1 A. What is fast track?</p> <p>2 Q. Okay. Then let me ask you something.</p> <p>3 Does "fast track" have any meaning to you in</p> <p>4 terms of legislation?</p> <p>5 A. It's not a term that we use.</p> <p>6 Q. Was SB 14 expedited in any way when it was in</p> <p>7 the legislature?</p> <p>8 A. It has a low bill number, which gives</p> <p>9 evidence that it was taken seriously.</p> <p>10 Q. Do you recall what steps were taken to</p> <p>11 expedite SB 14 in the legislature?</p> <p>12 A. It was not my bill, so I don't recall -- I</p> <p>13 don't have knowledge of any specific steps to</p> <p>14 expedite, no. The author would know, but I don't.</p> <p>15 Q. Are you aware that a select committee was</p> <p>16 formed to deal with SB 14?</p> <p>17 A. A select committee?</p> <p>18 Q. Yes.</p> <p>19 A. I was not on that committee.</p> <p>20 Q. Are you aware that there was -- that there</p> <p>21 was a select committee?</p> <p>22 A. That's so long ago, I -- I have forgotten.</p> <p>23 I -- I -- I truly don't recall. I'd have to go back</p> <p>24 and review everything for that particular session.</p> <p>25 What you don't understand is, during</p>
<p style="text-align: right;">102</p> <p>1 governor declared photo ID to be a piece of emergency</p> <p>2 legislation in 2012?</p> <p>3 A. I don't have the ability to read his mind. I</p> <p>4 wish I did.</p> <p>5 Q. Do you recall any discussions you had had</p> <p>6 with anyone concerning the issue of whether photo ID</p> <p>7 legislation should be emergency legislation?</p> <p>8 MS. DONNELLY: Objection. That calls</p> <p>9 for information protected by legislative privilege.</p> <p>10 A. I'm going to declare that, but you can keep</p> <p>11 it sealed.</p> <p>12 I -- I don't remember any conversations. I</p> <p>13 may have had some, but I -- I can't remember any</p> <p>14 specifically.</p> <p>15 Q. Are you aware of any information between 2009</p> <p>16 and 2011 that would have made voter ID an emergency</p> <p>17 legislation?</p> <p>18 MS. DONNELLY: Objection. Calls for</p> <p>19 information covered under legislative privilege.</p> <p>20 You can answer under seal if you would</p> <p>21 like to.</p> <p>22 A. I'm going to have to declare that and then</p> <p>23 keep it sealed, but I don't recall.</p> <p>24 Q. (BY MR. ROSENBERG) Do you recall whether</p> <p>25 SB 14 was put on fast track?</p>	<p style="text-align: right;">104</p> <p>1 session -- when you ask me these things, I'd like you</p> <p>2 to understand -- we're dealing with a lot of bills.</p> <p>3 Every session, we're dealing with a lot of issues.</p> <p>4 We're dealing with a lot of amendments. When I'm on</p> <p>5 the floor of the House, and we're dealing with a</p> <p>6 particular bill and debate is going on with that bill</p> <p>7 and amendments coming on with that bill, I'm working</p> <p>8 the floor regarding amendments coming up that I like,</p> <p>9 amendments that I want to see killed, amendments that</p> <p>10 might be happening, debate that's going on. And by</p> <p>11 the way, other bills that are going to be coming after</p> <p>12 this bill is over, then I want to give a heads up to</p> <p>13 my colleagues. We're juggling bowling balls here.</p> <p>14 In addition to that, I'm also working,</p> <p>15 because as soon as we get off, we go to committee</p> <p>16 hearings, as a general rule, and I'm wanting to let</p> <p>17 committee members know that I've got this bill, that</p> <p>18 bill or another bill coming up that might be mine or</p> <p>19 might not be mine that they're going to be hearing</p> <p>20 that they need to pay special attention to or have</p> <p>21 special concerns with.</p> <p>22 So multitasking is a great understatement.</p> <p>23 Q. Do you rank bills in -- in order of priority</p> <p>24 of importance to you?</p> <p>25 A. The bills that come up on a daily basis when</p>

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<p style="text-align: right;">113</p> <p>1 MR. SCOTT: Thank you.</p> <p>2 Q. (BY MR. ROSENBERG) I'd like to show you,</p> <p>3 Representative Riddle, a document that's been marked</p> <p>4 as Exhibit 156. And for the record, the Bates stamp</p> <p>5 number is TX_00005511 through 14.</p> <p>6 A. Okay.</p> <p>7 MR. ROSENBERG: It's marked highly</p> <p>8 confidential, and I understand that the State is</p> <p>9 asserting an objection to the use of these documents</p> <p>10 at this deposition on a standing basis.</p> <p>11 And by the way, I will represent on the</p> <p>12 record that, according to the privilege log, these</p> <p>13 documents were produced by Representative Riddle.</p> <p>14 MS. DONNELLY: Can we take a quick</p> <p>15 break?</p> <p>16 MR. ROSENBERG: Sure.</p> <p>17 (Break.)</p> <p>18 Q. (BY MR. ROSENBERG) The question I had -- and</p> <p>19 actually -- well, have you seen that document before?</p> <p>20 A. I don't remember having seen it before,</p> <p>21 actually. There are things that wind up in my bill</p> <p>22 packets or things that are handed to me often or</p> <p>23 things that come that just kind of get stuck in there.</p> <p>24 I -- when you handed this to me, I don't remember ever</p> <p>25 seeing this before.</p>	<p style="text-align: right;">115</p> <p>1 A. Uh-huh.</p> <p>2 Q. And these were those documents that were</p> <p>3 produced by your office.</p> <p>4 A. Uh-huh.</p> <p>5 Q. And all of them are marked as highly</p> <p>6 confidential.</p> <p>7 A. Uh-huh.</p> <p>8 MR. ROSENBERG: I believe this was the</p> <p>9 bill file --</p> <p>10 MR. GEAR: Yes.</p> <p>11 MR. ROSENBERG: -- from --</p> <p>12 A. Well, but I instructed my office --</p> <p>13 Q. (BY MR. ROSENBERG) Let me finish.</p> <p>14 A. Okay.</p> <p>15 Q. You can -- you can say whatever you want, I</p> <p>16 just want to finish my sentence.</p> <p>17 A. Okay.</p> <p>18 MR. ROSENBERG: This is the bill file</p> <p>19 from Representative Riddle's office.</p> <p>20 Q. (BY MR. ROSENBERG) And now, I'm sorry, I</p> <p>21 didn't mean to interrupt you, I just wanted to finish</p> <p>22 my sentence.</p> <p>23 MS. DONNELLY: There was no question.</p> <p>24 A. Well, let me make it clear that when I was</p> <p>25 made aware that a request was made, I instructed my</p>
<p style="text-align: right;">114</p> <p>1 Q. Okay.</p> <p>2 MS. DONNELLY: And I'm going to</p> <p>3 interject there that if you're going to ask the</p> <p>4 witness questions about Riddle No. 156, since it has</p> <p>5 come from her bill file, that's covered by the</p> <p>6 legislative privilege.</p> <p>7 Subject to that objection, you can</p> <p>8 answer.</p> <p>9 A. Okay. We're going to -- we're going to</p> <p>10 declare legislative privilege here, but I am going to</p> <p>11 add -- and it will probably be sealed -- that I don't</p> <p>12 remember ever seeing this. I certainly didn't put it</p> <p>13 in there, and I have no memory of this whatsoever.</p> <p>14 But that is not necessarily uncommon. Things get</p> <p>15 handed to me or get stuck in my bill files that, quite</p> <p>16 frankly, I didn't put in there, my staff may not have</p> <p>17 even put it in there. Something could have been</p> <p>18 handed to me that I just stick in there and I don't</p> <p>19 even look at it. So I have no idea what this is.</p> <p>20 Q. (BY MR. ROSENBERG) And to try to expedite</p> <p>21 this part of the deposition, I'm going to show you</p> <p>22 what's been marked as Exhibit 158, and it is a</p> <p>23 collected group of documents that are in Bates stamped</p> <p>24 order, beginning with TX_00005325 and ending at</p> <p>25 TX_00005582.</p>	<p style="text-align: right;">116</p> <p>1 office to copy everything within the files. I did not</p> <p>2 discriminate, I did not say "Take this out, take that</p> <p>3 out." I didn't even look at the files to remove</p> <p>4 anything. I just said, "We're going to be completely</p> <p>5 candid. I have no idea what's all in there, but just</p> <p>6 copy everything and send it on."</p> <p>7 (Riddle Exhibit 158 marked/introduced.)</p> <p>8 Q. (BY MR. ROSENBERG) This is a set of the bill</p> <p>9 file, and I'd like you to turn -- just so you see</p> <p>10 the -- if you turn to the third page, which is</p> <p>11 TX_00005327 through 5329, and can you at least confirm</p> <p>12 that that is the same document that we had just marked</p> <p>13 as Exhibit 155?</p> <p>14 MS. DONNELLY: Since Exhibit 158 is from</p> <p>15 Representative Riddle's bill file, any questions</p> <p>16 related to this exhibit are covered by the legislative</p> <p>17 privilege.</p> <p>18 And subject to that, and the answer</p> <p>19 being under seal, you can answer that question.</p> <p>20 A. Yes, it appears to be the same.</p> <p>21 Q. (BY MR. ROSENBERG) Okay. Then turning your</p> <p>22 attention to the handwriting in the upper left-hand</p> <p>23 corner: "My husband was chairman of the ballot</p> <p>24 security for Harris County Republican Party and we</p> <p>25 both could tell some interesting stories," is that</p>

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<p style="text-align: right;">117</p> <p>1 your handwriting?</p> <p>2 A. Yes, sir, it is.</p> <p>3 Q. And when you say "we both could tell some</p> <p>4 interesting stories," could you tell me what you're</p> <p>5 referring to?</p> <p>6 A. Well, as far as I -- I don't remember the</p> <p>7 stories at this point, but they were anecdotal stories</p> <p>8 that were given to me.</p> <p>9 Q. Is the handwriting that reads "There are</p> <p>10 those who have fought & died and continue to fight &</p> <p>11 die for our freedom to vote. It would be</p> <p>12 disrespectful to their courage & memory if we allowed</p> <p>13 our ballot boxes become compromised," is that your</p> <p>14 handwriting?</p> <p>15 MS. DONNELLY: I'm going to object to</p> <p>16 that question. It's covered by the legislative</p> <p>17 privilege. It's clearly not the same handwriting, and</p> <p>18 it's clearly not Representative Riddle's right to</p> <p>19 waive someone else's legislative privilege.</p> <p>20 MR. ROSENBERG: First of all, my</p> <p>21 question was, was it her handwriting, and I think she</p> <p>22 can testify as to whether or not it is her</p> <p>23 handwriting. I don't think either of us are</p> <p>24 handwriting experts, and, quite frankly, I didn't look</p> <p>25 at it and say, "Well, it's definitely someone else's</p>	<p style="text-align: right;">119</p> <p>1 5327, TX_00005327, where it says "Paul Bettencourt,"</p> <p>2 do you see that?</p> <p>3 A. Yes, sir.</p> <p>4 Q. And then underneath there, it says: "35</p> <p>5 foreign nationals," do you see that? But it's crossed</p> <p>6 out.</p> <p>7 A. Yes, sir.</p> <p>8 Q. Is that your handwriting also?</p> <p>9 A. I don't think so. I don't recall writing</p> <p>10 that.</p> <p>11 Q. Do you have an understanding as to what is</p> <p>12 meant by "35 foreign nationals"?</p> <p>13 A. I don't recall, sir. No, sir. I don't think</p> <p>14 that's my handwriting either.</p> <p>15 Q. I'd like to turn your attention back to the</p> <p>16 document you were looking at a few moments ago, which</p> <p>17 is --</p> <p>18 MR. SCOTT: 5515.</p> <p>19 MR. ROSENBERG: I'm sorry, what is it?</p> <p>20 MR. SCOTT: 5515.</p> <p>21 Q. (BY MR. ROSENBERG) 5511, actually, in this</p> <p>22 package. If you turn to page 5511. That's the Texas</p> <p>23 voter registration application form.</p> <p>24 Do you see that?</p> <p>25 A. Uh-huh.</p>
<p style="text-align: right;">118</p> <p>1 handwriting." So I just asked her whether it was her</p> <p>2 handwriting or not.</p> <p>3 MS. DONNELLY: Same objection.</p> <p>4 And I instruct the witness not to</p> <p>5 answer.</p> <p>6 Q. (BY MR. ROSENBERG) Are you following your --</p> <p>7 A. It's under seal.</p> <p>8 It's my handwriting, sir.</p> <p>9 Q. It is your handwriting?</p> <p>10 A. Yes, sir. And I mean it.</p> <p>11 Q. And turning to the third page of -- I'm</p> <p>12 sorry, page 5329, where it says: "Our good friend the</p> <p>13 former Representative Mary Denny presented this bill</p> <p>14 last session. My bill" -- the words "is very much" is</p> <p>15 crossed out -- "replicates her bill with the various</p> <p>16 amendments she accepted."</p> <p>17 Is that your handwriting?</p> <p>18 A. Yes, sir.</p> <p>19 Q. Based upon this, had you compared your bill</p> <p>20 with Representative Denny's bill?</p> <p>21 A. You mean she and I sitting down together</p> <p>22 doing that?</p> <p>23 Q. No. In any way.</p> <p>24 A. I used hers as a good guideline.</p> <p>25 Q. On the first page -- or, I'm sorry, page</p>	<p style="text-align: right;">120</p> <p>1 Q. And you see where it says, under "Complete</p> <p>2 These Questions Before Proceeding, Check one, New,</p> <p>3 Change, Replacement"?</p> <p>4 Do you see that? Towards the top.</p> <p>5 A. Are you -- under which -- yes, sir.</p> <p>6 "Complete These Questions Before Proceeding," yes,</p> <p>7 sir.</p> <p>8 Q. And you see where it says: "Are you a United</p> <p>9 States Citizen?" "Yes" or "No"?</p> <p>10 A. Yes.</p> <p>11 Q. And I'd like you to turn to page 5515, which</p> <p>12 is a document that's right after 5511 through 5514, do</p> <p>13 you see that handwriting? Is that your handwriting?</p> <p>14 A. No, sir, it isn't.</p> <p>15 Q. And like to turn your attention to page 5516.</p> <p>16 Is that your handwriting?</p> <p>17 A. No, sir, it isn't.</p> <p>18 Q. Do you know whose handwriting is on 5515 or</p> <p>19 5516?</p> <p>20 A. No, sir, I don't. And it was apparently in</p> <p>21 the bill file, and let me explain to you briefly what</p> <p>22 happens, how things get in a bill file that we may not</p> <p>23 ever see. It is not uncommon -- I wouldn't say it's</p> <p>24 common. It's not rare, but it's not necessarily</p> <p>25 common, it happens that when I am laying out a bill,</p>

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<p style="text-align: right;">121</p> <p>1 I'm usually standing at a podium before a dais, very</p> <p>2 much like y'all sitting here, and I have my bill</p> <p>3 folder and file before me, and I'm laying out that</p> <p>4 bill.</p> <p>5 The public is behind me, seated in chairs.</p> <p>6 If you've ever been in a committee hearing room, you</p> <p>7 would see that to be the case.</p> <p>8 There are times when members of the public</p> <p>9 that are seated behind me feel very emotional over</p> <p>10 various bills, and they will hand me a note either</p> <p>11 telling me what to say or what not to say or note</p> <p>12 about their feeling, and my standard operating</p> <p>13 procedure -- because I don't want to be distracted --</p> <p>14 is, because they're behind me, sometimes I'll just see</p> <p>15 a note there, I'll grab it and stick it in my file.</p> <p>16 Usually in the back of the file. You know, just lift</p> <p>17 it up, stick it in, and I don't ever see it.</p> <p>18 And when this was found the last time a</p> <p>19 couple of years ago -- this is not new. This is --</p> <p>20 when this was found when they went through everything,</p> <p>21 my staff called. I said, "Scan it, I have no memory</p> <p>22 of that. I certainly would not have written it, and</p> <p>23 let me see if I recognize the writing."</p> <p>24 They scanned it and sent it to me, and I</p> <p>25 didn't recognize the writing.</p>	<p style="text-align: right;">123</p> <p>1 necessarily common, but it happens -- hand me things,</p> <p>2 notes, and I never read them, because I don't want to</p> <p>3 get distracted. But I just put them in the back of</p> <p>4 the file and usually forget them.</p> <p>5 Q. And when you say "they were considering doing</p> <p>6 a handwriting analysis," who's the "they"?</p> <p>7 A. Y'all.</p> <p>8 Q. And -- all right. We'll move on.</p> <p>9 A. The people that did the deposition the last</p> <p>10 time. The Department of Justice that did the</p> <p>11 deposition the last time.</p> <p>12 Q. Is it your understanding that the Department</p> <p>13 of Justice had that document two years ago?</p> <p>14 A. Uh-huh. They had everything. They had -- my</p> <p>15 files have not changed. I didn't -- you know, I could</p> <p>16 have, quite frankly, instructed my staff to take that</p> <p>17 out and shred it, but I didn't. I don't -- I don't</p> <p>18 have anything to hide. So that was -- remained in</p> <p>19 there. It wasn't mine, it was a note. That was it.</p> <p>20 Q. And I'm not asking you for anything that you</p> <p>21 were told by one of your attorneys.</p> <p>22 Other than one of your attorneys, who told</p> <p>23 you that the Department of Justice was trying to get a</p> <p>24 handwriting expert to look at your files?</p> <p>25 A. The last time that the Department of Justice</p>
<p style="text-align: right;">122</p> <p>1 So the only way that I can tell you it got</p> <p>2 there is probably some member of the public behind me</p> <p>3 handed it to me, and I stuck it in the file and forgot</p> <p>4 about it.</p> <p>5 Q. Had you remembered receiving it?</p> <p>6 A. No, sir. I never -- I never laid eyes on it.</p> <p>7 I don't remember receiving it, I don't remember</p> <p>8 ever -- until the last time that y'all came and looked</p> <p>9 through everything a couple of years ago, that's when</p> <p>10 it was first found. And I didn't throw it away. I</p> <p>11 keep my bill files, everything in them, to -- and</p> <p>12 so -- actually, they wanted to do a handwriting</p> <p>13 analysis to make sure that it wasn't mine, and they</p> <p>14 gathered together legal pads, I'm told -- I wasn't</p> <p>15 there, but my staff said they gathered together legal</p> <p>16 pads and various things just to do a cursory analysis</p> <p>17 of it, and it became abundantly clear that it was not</p> <p>18 my handwriting.</p> <p>19 So they didn't even bother to go further, and</p> <p>20 I gave them the explanation that, again, it's not</p> <p>21 uncommon for the general public that is literately</p> <p>22 within an arm's reach -- you know, we're standing in</p> <p>23 an aisle, and there's chairs on either side of us,</p> <p>24 they can reach out and touch me, and so it's not</p> <p>25 uncommon to -- I'd say it's not rare, it's not</p>	<p style="text-align: right;">124</p> <p>1 came in --</p> <p>2 Q. Whenever you're talking about this</p> <p>3 conversation.</p> <p>4 A. The last time you and I met. When was that,</p> <p>5 two years ago?</p> <p>6 Q. Right.</p> <p>7 A. Okay.</p> <p>8 Q. I said who, not when. Who?</p> <p>9 A. Well, the folks came in wanting to know, look</p> <p>10 at all my stuff. I assume that was the Department of</p> <p>11 Justice, was it not? You would know that better than</p> <p>12 I.</p> <p>13 MS. DONNELLY: You had a conversation</p> <p>14 with your counsel that's privileged, so...</p> <p>15 MR. ROSENBERG: Right. And I</p> <p>16 specifically said I was not asking for --</p> <p>17 MS. DONNELLY: Just reminding the</p> <p>18 witness.</p> <p>19 Q. (BY MR. ROSENBERG) Have you been following</p> <p>20 the implementation of SB 14?</p> <p>21 A. Not really. I've been following the concerns</p> <p>22 of my constituents.</p> <p>23 Q. Have constituents raised concerns about the</p> <p>24 implementation of SB 14 to you?</p> <p>25 A. No, not really.</p>

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<p style="text-align: right;">125</p> <p>1 Q. Have any voters told you that they were not</p> <p>2 able to vote because of the requirements of SB 14?</p> <p>3 A. No.</p> <p>4 Q. Have any voters told you it's more difficult</p> <p>5 for them to get the identification required by SB 14?</p> <p>6 A. No.</p> <p>7 Q. Have you taken any surveys of your</p> <p>8 constituents on those questions?</p> <p>9 A. No.</p> <p>10 Q. Are you aware of any changes that are being</p> <p>11 considered by the legislature as to SB 14?</p> <p>12 A. Changes to be considered to take up next</p> <p>13 session?</p> <p>14 Q. Any session.</p> <p>15 A. Well, past sessions. Any future sessions,</p> <p>16 I'm not aware of any.</p> <p>17 Q. How about since the enactment of SB 14, have</p> <p>18 there been any attempts to amend it since its</p> <p>19 enactment?</p> <p>20 MS. DONNELLY: I'm going to instruct the</p> <p>21 witness that to the extent it's in the public record,</p> <p>22 you can answer it. If not, then it's covered by</p> <p>23 legislative privilege and instruct the witness not to</p> <p>24 answer.</p> <p>25 A. I don't recall any. There may be, but I</p>	<p style="text-align: right;">127</p> <p>1 the witness to Mr. Gear.</p> <p>2 And I thank you for your time.</p> <p>3 THE WITNESS: Thank you.</p> <p>4 E X A M I N A T I O N</p> <p>5 BY MR. GEAR:</p> <p>6 Q. So, Representative Riddle, again, my name is</p> <p>7 Bruce Gear. I'm with the Department of Justice</p> <p>8 representing the United States. Ezra Rosenberg has</p> <p>9 now passed the witness to me, which is you, and I just</p> <p>10 wanted to start off by, you know, just confirming that</p> <p>11 you understand that the same ground rules apply for my</p> <p>12 questioning as it did for Mr. Rosenberg's.</p> <p>13 A. Yes, sir.</p> <p>14 Q. You understand that?</p> <p>15 A. Yes, sir.</p> <p>16 Q. Do you understand that if you don't</p> <p>17 understand one of the questions that I ask, you can</p> <p>18 ask me to clarify?</p> <p>19 A. Yes, sir.</p> <p>20 Q. And do you understand that you continue to be</p> <p>21 under oath and that you are required to give complete</p> <p>22 and full answers?</p> <p>23 A. Yes, sir.</p> <p>24 Q. And if there's any part of the deposition, as</p> <p>25 we continue on, that you may have a question for, you</p>
<p style="text-align: right;">126</p> <p>1 don't recall any.</p> <p>2 Q. (BY MR. ROSENBERG) Have you or your staff</p> <p>3 taken any steps to help implement SB 14?</p> <p>4 A. No, we just -- the bill passed. It's up to</p> <p>5 our county clerk to run the elections.</p> <p>6 Q. Have you or your staff done anything in terms</p> <p>7 of trying to educate the public as to SB 14?</p> <p>8 A. No. My constituency appear to be very happy</p> <p>9 it was passed.</p> <p>10 Q. Are you aware of how much money has been</p> <p>11 dedicated by the legislature for the implementation of</p> <p>12 SB 14?</p> <p>13 A. No, sir.</p> <p>14 Q. Do you know how much money has been used by</p> <p>15 the State of Texas and any of its agencies to</p> <p>16 implement SB 14?</p> <p>17 A. No, sir.</p> <p>18 Q. Are you aware of any steps taken to educate</p> <p>19 voters by the State of Texas as to SB 14?</p> <p>20 A. I can't think of anything specifically, but I</p> <p>21 know that we, as the State of Texas, have pamphlets</p> <p>22 and things like that for voters, but I can't think of</p> <p>23 anything specifically that I know that those</p> <p>24 education-type literature things exist.</p> <p>25 MR. ROSENBERG: All right. I will pass</p>	<p style="text-align: right;">128</p> <p>1 can always ask me to clarify.</p> <p>2 You understand that?</p> <p>3 A. Yes, sir. And -- and I might also add that</p> <p>4 we're in Chad Dunn's office. He's a friend of ours,</p> <p>5 and he's part of this. You just might take that into</p> <p>6 consideration. It's a bit ironic, if he thought we</p> <p>7 were such terrible people, I don't think we'd be in</p> <p>8 his office.</p> <p>9 Q. So I'm going to do my best not to replicate</p> <p>10 any of the questions that were already asked. Forgive</p> <p>11 me if I do, there were a lot of questions asked --</p> <p>12 A. That's okay.</p> <p>13 Q. -- and you gave a lot of answers.</p> <p>14 A. That's okay.</p> <p>15 Q. You were talking about -- when you were</p> <p>16 referencing the handwritten notes that you thought the</p> <p>17 Department of Justice was attempting to conduct a</p> <p>18 handwriting analysis on --</p> <p>19 A. That's what my staff told me.</p> <p>20 Q. You indicated that you believed that was</p> <p>21 handed to you while you were at the podium; was that</p> <p>22 your testimony?</p> <p>23 A. That's the only explanation I can come up</p> <p>24 with that makes any sense, because I had not seen that</p> <p>25 prior to the -- and -- and to this good day, I've</p>

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<p style="text-align: right;">133</p> <p>1 that --</p> <p>2 A. Most of the Democrat legislators.</p> <p>3 Q. Were there any nonminority legislators that</p> <p>4 supported SB 14?</p> <p>5 A. Yes, sir, I believe so.</p> <p>6 Q. And do you recall what the concerns that were</p> <p>7 expressed regarding SB 14 were?</p> <p>8 A. Your question was, were there any minority</p> <p>9 legislators that supported SB 14? Did I get that</p> <p>10 question right?</p> <p>11 Q. My question was: Do you recall what concerns</p> <p>12 these supporters of SB 14 raised during the public</p> <p>13 debate regarding SB 14?</p> <p>14 A. Were there concerns of supporters of SB 14</p> <p>15 that brought up concerns?</p> <p>16 Q. Do you not understand my question?</p> <p>17 A. I think I'm confused by your question.</p> <p>18 Can you rephrase it?</p> <p>19 Q. Let me start over.</p> <p>20 A. Okay.</p> <p>21 Q. Were there support -- opponents of SB 14 --</p> <p>22 A. Uh-huh.</p> <p>23 Q. -- that raised concerns about SB 14 during</p> <p>24 the public debate?</p> <p>25 A. Yes, sir.</p>	<p style="text-align: right;">135</p> <p>1 privilege on that.</p> <p>2 Q. And even -- are you also declining to testify</p> <p>3 to that even if it's under seal?</p> <p>4 A. Yes, sir.</p> <p>5 MR. GEAR: Maybe this is a good place</p> <p>6 for us to take a break and actually eat.</p> <p>7 (Lunch break.)</p> <p>8 Q. (BY MR. GEAR) So I think we left off, we were</p> <p>9 discussing opponents of SB 14 and the types of</p> <p>10 concerns that they raised during the public debate.</p> <p>11 And just to summarize what you said before,</p> <p>12 you identified inconvenience as one of the concerns</p> <p>13 related to SB 14.</p> <p>14 A. Uh-huh.</p> <p>15 MS. DONNELLY: Objection to the form of</p> <p>16 the question.</p> <p>17 Go ahead.</p> <p>18 Q. (BY MR. GEAR) And my question to you is: Do</p> <p>19 you recall any other concerns raised regarding SB 14?</p> <p>20 A. I think any and all other objections would</p> <p>21 fall under the category of inconvenience.</p> <p>22 Q. When you say "inconvenience," what do you</p> <p>23 mean?</p> <p>24 A. Something that would be inconvenient for</p> <p>25 somebody.</p>
<p style="text-align: right;">134</p> <p>1 Q. And what were those concerns?</p> <p>2 A. You can go back to the debate. You can even</p> <p>3 watch them on the video if you'd like.</p> <p>4 I think much of their concern had to do with</p> <p>5 what you mentioned, inconvenience. Having to, you</p> <p>6 know -- primarily inconvenience, I think.</p> <p>7 Q. Is it fair to say that one of the concerns</p> <p>8 regarding SB 14 is that it may discriminate against</p> <p>9 minority voters?</p> <p>10 A. I think that that was one of the arguments</p> <p>11 that they had.</p> <p>12 Q. And how did you respond to that concern?</p> <p>13 A. I did not feel like that was a valid</p> <p>14 argument.</p> <p>15 Q. And did you or your staff conduct any</p> <p>16 analysis to determine -- that attempted to determine</p> <p>17 whether or not SB 14 actually discriminated against</p> <p>18 minority voters?</p> <p>19 MS. DONNELLY: I'm going to object.</p> <p>20 That question calls for information protected by</p> <p>21 legislative privilege.</p> <p>22 And instruct the witness not to answer.</p> <p>23 Q. (BY MR. GEAR) And are you following the</p> <p>24 advice of your counsel in not answering that question?</p> <p>25 A. Yes, sir, I'm going to declare a legislative</p>	<p style="text-align: right;">136</p> <p>1 Q. As it applies to SB 14, how do you -- how do</p> <p>2 you define "inconvenience"?</p> <p>3 MS. DONNELLY: I'm going to object to</p> <p>4 the form of the question. Please don't speculate what</p> <p>5 other people meant by inconvenience. Please don't</p> <p>6 speculate.</p> <p>7 A. Okay. Like, how far they would need to</p> <p>8 travel, something of that sort. It's been a long time</p> <p>9 since we've had that debate.</p> <p>10 Q. (BY MR. GEAR) And do you recall what the</p> <p>11 discussion regarding travel was as it related to</p> <p>12 SB 14?</p> <p>13 A. No. Other than just length of time, length</p> <p>14 of miles, maybe taking off of work, that type -- the</p> <p>15 things that you mentioned rang a bell with me.</p> <p>16 Q. And so the length of time as it relates to</p> <p>17 travel and taking off of work were identified as</p> <p>18 inconvenient as it relates to SB 14?</p> <p>19 A. Yeah. But that's no different than anybody</p> <p>20 else.</p> <p>21 Q. And what do you mean by that?</p> <p>22 A. Well, you don't have to be of any particular</p> <p>23 race, religion, color, anything else. If you've got a</p> <p>24 job, if you live further away, it's not a matter of</p> <p>25 race. I mean, there's inconveniences to all of us.</p>

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<p style="text-align: right;">137</p> <p>1 Q. Well, do you recall how the opponents of</p> <p>2 SB 14 applied the concept of inconvenience to the</p> <p>3 bill?</p> <p>4 A. Not specifically. I don't remember the</p> <p>5 specifics of their examples.</p> <p>6 Q. Were there any concerns raised regarding</p> <p>7 voters who may not have transportation, for example?</p> <p>8 A. I think that might have been mentioned. I</p> <p>9 don't remember who did it. I -- I don't remember.</p> <p>10 It's plausible it could have been brought up. I can't</p> <p>11 guarantee it. But it's plausible.</p> <p>12 Q. What, if any, analysis did you or your staff</p> <p>13 conduct regarding lack of transportation as it relates</p> <p>14 to SB 14?</p> <p>15 MS. DONNELLY: Object to the extent that</p> <p>16 the question calls for information covered by the</p> <p>17 legislative privilege.</p> <p>18 You can answer under seal if you want</p> <p>19 to.</p> <p>20 A. Under seal. We didn't really do any analysis</p> <p>21 as such. I am very tuned in with my constituents, the</p> <p>22 way my constituents feel. And my constituents were</p> <p>23 very much in favor of the voter photo IDs. As a</p> <p>24 matter of fact, they were demanding it.</p> <p>25 Q. (BY MR. GEAR) And again, you've -- you've</p>	<p style="text-align: right;">139</p> <p>1 documented cases of examples where someone voted</p> <p>2 multiple times?</p> <p>3 A. None documented. Anecdotally, yes.</p> <p>4 Documented, no.</p> <p>5 Q. Did any constituent provide you with any</p> <p>6 documented cases that would support the integrity of</p> <p>7 the ballot box was at risk?</p> <p>8 A. Anecdotally, yes. Documented, no.</p> <p>9 Q. And when you say "anecdotally," what</p> <p>10 anecdotal examples did they give you of examples where</p> <p>11 the integrity of the ballot box was at risk?</p> <p>12 A. Multiple stories of where either they or</p> <p>13 friends or family members had seen someone attempting</p> <p>14 to vote that they knew had voted before or attempting</p> <p>15 to vote that was not registered or just multiple</p> <p>16 stories.</p> <p>17 Q. Were any of these cases prosecuted that</p> <p>18 you're aware of?</p> <p>19 A. No. No. As you know, it's very difficult to</p> <p>20 prosecute any case like that. It's easy to say, hard</p> <p>21 to do.</p> <p>22 Q. Why is it hard to prosecute in-person voter</p> <p>23 fraud?</p> <p>24 A. You're the lawyer, not me.</p> <p>25 Q. Well, I'm asking you.</p>
<p style="text-align: right;">138</p> <p>1 mentioned the term "constituents" and how your</p> <p>2 constituents felt regarding SB 14.</p> <p>3 How did your constituents feel regarding</p> <p>4 SB 14?</p> <p>5 A. Not only were they for it, they were</p> <p>6 adamantly in favor of it.</p> <p>7 Q. Did they tell you why?</p> <p>8 A. Because they, too, are concerned about voter</p> <p>9 fraud. They are very concerned about maintaining the</p> <p>10 integrity of the ballot box.</p> <p>11 Q. Did any constituents tell you that they were</p> <p>12 concerned regarding the integrity of the ballot box?</p> <p>13 A. Yes.</p> <p>14 Q. And did they provide any substance to that</p> <p>15 communication?</p> <p>16 A. No. Other than -- than their concerns.</p> <p>17 Q. And -- and I'm trying to understand what</p> <p>18 their concerns were.</p> <p>19 A. The integrity of the ballot box. They want</p> <p>20 to make sure that when they vote, their vote is not</p> <p>21 stolen. Because if somebody votes illegally who</p> <p>22 should not be voting because they're doing so</p> <p>23 illegally or multiple times, then that, in essence,</p> <p>24 steals their vote.</p> <p>25 Q. Did any constituent provide you with any</p>	<p style="text-align: right;">140</p> <p>1 A. I'm not a lawyer.</p> <p>2 Q. Did you discuss during the public debate</p> <p>3 whether or not it was difficult to prosecute in-person</p> <p>4 voter fraud?</p> <p>5 A. No.</p> <p>6 Q. Did you conduct any analysis that would</p> <p>7 support your position that it's difficult to prosecute</p> <p>8 in-person voter fraud?</p> <p>9 MS. DONNELLY: I'm going to object on</p> <p>10 the grounds that the question calls for information</p> <p>11 covered by legislative privilege.</p> <p>12 A. I'll declare my legislative privilege but</p> <p>13 answer it under seal.</p> <p>14 I did not have a large enough staff to</p> <p>15 conduct the types of analysis that you're suggesting.</p> <p>16 We're not in Washington, D.C., we're in Austin, Texas.</p> <p>17 I don't have the kind of budgets -- or I don't have</p> <p>18 the kind of budget in Austin that the people in</p> <p>19 Washington, D.C., that y'all might be familiar with,</p> <p>20 are accustomed to. So doing that type of analysis is</p> <p>21 not something that I have enough staff or funds to do.</p> <p>22 Q. (BY MR. GEAR) So your answer is, no, you did</p> <p>23 not conduct that type of analysis?</p> <p>24 A. Yes. And I also told you why.</p> <p>25 Q. So taking you back to Exhibit HB 1706.</p>

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<p style="text-align: right;">141</p> <p>1 A. Which one is that?</p> <p>2 Q. I'll give you the exhibit number.</p> <p>3 A. Which one is that?</p> <p>4 Q. Give me one second. I'm sorry.</p> <p>5 MR. ROSENBERG: That would be Exhibit</p> <p>6 No. 2, I believe. I'm sorry.</p> <p>7 What was the second exhibit we marked?</p> <p>8 THE REPORTER: It was 149.</p> <p>9 A. Here it is, 149.</p> <p>10 House Bill 1706?</p> <p>11 Q. (BY MR. GEAR) Yes, ma'am.</p> <p>12 A. Yes, sir.</p> <p>13 Q. You indicated during your testimony with</p> <p>14 Attorney Rosenberg that the bill was similar to Mary</p> <p>15 Denny's bill.</p> <p>16 Do you recall that testimony?</p> <p>17 A. That we had just a few minutes ago?</p> <p>18 Q. Yes.</p> <p>19 A. Uh-huh.</p> <p>20 Q. And when you say that bill was similar to</p> <p>21 Representative Denny's bill, how was it similar?</p> <p>22 A. Would you like me to do a side-by-side</p> <p>23 analysis?</p> <p>24 Q. I'd actually like to -- to see what you know,</p> <p>25 and if you feel it's necessary to do a side-by-side</p>	<p style="text-align: right;">143</p> <p>1 Q. (BY MR. GEAR) HB 101, is that your bill?</p> <p>2 A. House Bill 16 was my bill. Let's see if 101</p> <p>3 was my bill.</p> <p>4 Y'all still don't understand the massive</p> <p>5 about of bills and bill numbers that we deal with</p> <p>6 session after session. And 101, from one year to the</p> <p>7 next, one second to the next, are different bills.</p> <p>8 Okay. Here's 101.</p> <p>9 Q. That's Exhibit 150 that you're referring to?</p> <p>10 A. Yes, sir, 150.</p> <p>11 Q. Was HB 101 your bill?</p> <p>12 A. Yes, sir.</p> <p>13 Q. And the question was: Did you pattern HB 101</p> <p>14 after HB 1706?</p> <p>15 MS. DONNELLY: Asked and answered.</p> <p>16 You can answer again under seal.</p> <p>17 A. Yes, I can answer under seal.</p> <p>18 Yes, sir, I believe that I did use it as a</p> <p>19 pattern, to a large extent.</p> <p>20 Q. (BY MR. GEAR) And do you recall the public</p> <p>21 debate regarding HB 101?</p> <p>22 A. I don't think 101 -- I don't think 101 got to</p> <p>23 the floor. I don't think we had a public debate on</p> <p>24 that.</p> <p>25 Q. Is it that you don't recall?</p>
<p style="text-align: right;">142</p> <p>1 analysis, feel free.</p> <p>2 A. So this is a test?</p> <p>3 Q. Not a test.</p> <p>4 A. You want to test my memory. Man, you got me</p> <p>5 up a creek with that one.</p> <p>6 Okay. I'm going to have to -- okay. Well,</p> <p>7 Mary Denny, for 1706, she is the author of this bill.</p> <p>8 Q. Okay.</p> <p>9 A. So what -- so you're wanting me to compare</p> <p>10 this bill to what other bill?</p> <p>11 Q. The question was -- you can compare it to</p> <p>12 HB 101.</p> <p>13 A. I think you're confused about it too, so</p> <p>14 you'll have to forgive my confusion because of your</p> <p>15 confusion.</p> <p>16 Q. Well, I don't want to confuse you, so let me</p> <p>17 withdraw the question and ask you in a different way.</p> <p>18 A. Okay.</p> <p>19 Q. Did you pattern HB 101 after HB 1706?</p> <p>20 MS. DONNELLY: Objection to the form of</p> <p>21 the question. Calls for legislative privilege.</p> <p>22 A. I can answer under seal.</p> <p>23 I think I've already done that. You're</p> <p>24 asking regarding my bill, the House Bill 16, in</p> <p>25 comparison to House Bill 1706?</p>	<p style="text-align: right;">144</p> <p>1 A. No. I don't think that we had a public</p> <p>2 debate -- you mean in the committee or on the floor of</p> <p>3 the House?</p> <p>4 Q. I'm talking about on the floor of the House.</p> <p>5 A. Okay. Forgive my memory, but I don't think</p> <p>6 that 101 went to the floor of the House. Let me look</p> <p>7 and see.</p> <p>8 Q. Okay. So was there public debate in the</p> <p>9 committee?</p> <p>10 A. Well, it's -- it's -- what year was this?</p> <p>11 2007.</p> <p>12 First of all, I don't think it made it to the</p> <p>13 floor of the House.</p> <p>14 Second of all, I don't even recall if it got</p> <p>15 out of committee or not.</p> <p>16 Q. If I was to show you the legislative record</p> <p>17 on that, would that help refresh your recollection?</p> <p>18 A. Yes, it would, please.</p> <p>19 MR. GEAR: Why don't we go ahead and</p> <p>20 mark that.</p> <p>21 (Riddle Exhibit 159 marked/introduced.)</p> <p>22 Q. (BY MR. GEAR) I'm placing in front of you</p> <p>23 what's been identified as Exhibit 159. And I'll give</p> <p>24 you a chance to look at that.</p> <p>25 MS. DONNELLY: Well, there's about 231</p>

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<p style="text-align: right;">145</p> <p>1 pages, so --</p> <p>2 MR. GEAR: In particular, the first</p> <p>3 page.</p> <p>4 Q. (BY MR. GEAR) What is that?</p> <p>5 A. Okay. This is the Committee on Elections,</p> <p>6 and Chairman Berman is the chairman. And I've not yet</p> <p>7 laid the bill out, it appears here, from what I'm</p> <p>8 looking at.</p> <p>9 Q. Would that be considered the legislative</p> <p>10 record for the House?</p> <p>11 A. No, sir.</p> <p>12 Q. Is that a transcript of the hearing?</p> <p>13 A. This is a transcript of the hearing.</p> <p>14 Q. And that -- would that be considered an</p> <p>15 official transcript of the hearing?</p> <p>16 A. That, I don't know.</p> <p>17 Q. What was the date of the hearing?</p> <p>18 A. February 28, 2007.</p> <p>19 Q. And the document is -- is titled what?</p> <p>20 A. "Excerpt of hearing regarding HB 1290,</p> <p>21 HB 266, HB 101 and HB 218..."</p> <p>22 So this is not all having to do with my bill.</p> <p>23 This has to do with multiple bills. This has -- this</p> <p>24 is not on the floor of the House. This is the</p> <p>25 committee hearing.</p>	<p style="text-align: right;">147</p> <p>1 MS. DONNELLY: Maybe the witness should</p> <p>2 have an opportunity to read that part of the</p> <p>3 transcript.</p> <p>4 MR. GEAR: Sure. Please do.</p> <p>5 MS. DONNELLY: I think that would be</p> <p>6 fair.</p> <p>7 So take your time with that.</p> <p>8 Q. (BY MR. GEAR) Let me know when you've had</p> <p>9 time to read it.</p> <p>10 A. Okay. I'm not going to read every word of</p> <p>11 it, but, yes, sir, I remember now that this was my</p> <p>12 laying out the bill before the committee.</p> <p>13 Q. And you remember referring to HB 626, HB 101</p> <p>14 and HB 218 as being quite similar?</p> <p>15 A. Yes, sir.</p> <p>16 Q. And my question was: What did you mean by</p> <p>17 that?</p> <p>18 A. They were all about voter photo ID.</p> <p>19 Q. And referring to page 78, during the hearing,</p> <p>20 do you recall saying that "Our bill is actually</p> <p>21 patterned after Proposition 200 in Arizona"?</p> <p>22 A. Yes, sir. I don't remember saying it, but</p> <p>23 I'm -- I'm -- it's stated here, so I assume I did.</p> <p>24 Q. And what was Proposition 200 in Arizona?</p> <p>25 A. I just got through saying that I don't</p>
<p style="text-align: right;">146</p> <p>1 Q. So focusing on HB 101, does that help refresh</p> <p>2 your recollection as to whether or not there was</p> <p>3 public debate before the committee?</p> <p>4 A. I have to get to it. Just a second. To see</p> <p>5 if there were -- was anybody publicly commenting on</p> <p>6 it.</p> <p>7 Q. Well, if I direct your attention to page</p> <p>8 75 --</p> <p>9 A. There's really no public debate. It's</p> <p>10 actually public comment that's taken. The public</p> <p>11 doesn't engage really in debate. The public just</p> <p>12 simply gives comment.</p> <p>13 Q. I stand corrected.</p> <p>14 MS. DONNELLY: Was there a page you</p> <p>15 wanted to direct the witness to?</p> <p>16 MR. GEAR: 75.</p> <p>17 A. Page 75. Thank you.</p> <p>18 Q. (BY MR. GEAR) And specifically 75 at the</p> <p>19 bottom.</p> <p>20 A. Okay.</p> <p>21 Q. Do you see where you referred to HB 626,</p> <p>22 HB 101 and HB 218 as being quite similar?</p> <p>23 A. Yes, sir.</p> <p>24 Q. And when you say that the bills were quite</p> <p>25 similar, what -- what did you mean?</p>	<p style="text-align: right;">148</p> <p>1 remember saying this, but I'm reading here that I did,</p> <p>2 and I can't tell you. I don't recall. That's been</p> <p>3 some time ago.</p> <p>4 Q. And what I'm asking you is: What was</p> <p>5 Proposition 200 in Arizona?</p> <p>6 A. And I'm telling you, again, that's been some</p> <p>7 time ago, sir. I don't recall. I can do some</p> <p>8 research on it and come back and tell you. I'm happy</p> <p>9 to look it up for you. But off the top of my head,</p> <p>10 sir, I don't recall.</p> <p>11 Q. Do you also see, on page 78, where you say</p> <p>12 publicly during the comments period that HB 101 was</p> <p>13 patterned after HB 1706, Mary Denny's bill?</p> <p>14 A. Yes, sir.</p> <p>15 Q. Am I correct that HB 101 replicates HB 1706</p> <p>16 and includes the amendments accepted by Representative</p> <p>17 Denny during the debate on HB 1706?</p> <p>18 A. It does say that there, sir. I would not</p> <p>19 have remembered that off the top of my head, but I'm</p> <p>20 reading it here.</p> <p>21 Q. And you identified HB 626 as being a photo ID</p> <p>22 bill, correct?</p> <p>23 A. Yes, sir.</p> <p>24 Q. And did you have any communications with</p> <p>25 Representative -- or strike that.</p>

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<p style="text-align: right;">149</p> <p>1 Who authored HB 626?</p> <p>2 A. Golly, I don't recall. I don't remember what</p> <p>3 it was. I'd have to look and see. But off the top of</p> <p>4 my head, just spilling out a number means nothing. I</p> <p>5 would have to look and see. I'll be happy to look it</p> <p>6 up and tell you.</p> <p>7 Q. If I were to say that it was Representative</p> <p>8 King, would that refresh your recollection?</p> <p>9 A. Not really. But if you say it was, I'll take</p> <p>10 your word for it.</p> <p>11 Q. Do you make a habit of communicating with</p> <p>12 other representatives regarding similar bills prior to</p> <p>13 their introduction?</p> <p>14 A. I wouldn't say I make a habit of it, but we</p> <p>15 do communicate from time to time.</p> <p>16 Q. Based on the -- based on the transcript, you</p> <p>17 referred to the bills as being quite similar.</p> <p>18 A. Uh-huh.</p> <p>19 Q. Can you explain to me what you meant by</p> <p>20 "quite similar"?</p> <p>21 MS. DONNELLY: I'm going to object.</p> <p>22 That calls for information that's protected by</p> <p>23 legislative privilege.</p> <p>24 If you want to answer subject to that</p> <p>25 and it's sealed, it's up to you.</p>	<p style="text-align: right;">151</p> <p>1 by legislative privilege to the extent the question</p> <p>2 calls for communications with the author of 218.</p> <p>3 Instruct the witness not to answer.</p> <p>4 Q. (BY MR. GEAR) Are you familiar with the Texas</p> <p>5 Conservative Coalition?</p> <p>6 A. Yes, sir.</p> <p>7 Q. And what is the Texas Conservative Coalition?</p> <p>8 A. It's a group of individuals that hold very --</p> <p>9 very strong to our U.S. Constitution and to our basic</p> <p>10 conservative values that this country was founded on.</p> <p>11 Q. When you say "group of individuals," is the</p> <p>12 Texas Conservative Coalition comprised of elected</p> <p>13 officials?</p> <p>14 A. There are some elected officials that belong</p> <p>15 to it, yes.</p> <p>16 Q. State senators?</p> <p>17 A. To my knowledge, I believe so.</p> <p>18 Q. House representatives?</p> <p>19 A. To my knowledge, I believe so.</p> <p>20 Q. Local county officials?</p> <p>21 A. I think so. I don't have the list of</p> <p>22 their -- of their membership memorized.</p> <p>23 Q. Well, are you a member of the Texas</p> <p>24 Conservative Coalition?</p> <p>25 A. I believe I am.</p>
<p style="text-align: right;">150</p> <p>1 A. Under seal.</p> <p>2 They were apparently all about voter photo</p> <p>3 ID. It's not hard.</p> <p>4 Q. (BY MR. GEAR) And is it fair to say that --</p> <p>5 regarding the photo ID legislation that these bills</p> <p>6 were drafted by legislative counsel?</p> <p>7 A. I would say 99.99 percent of all of our bills</p> <p>8 are drafted by legislative counsel, sir.</p> <p>9 Q. Do you discuss similar bills with other</p> <p>10 legislators -- and more specifically, did you discuss</p> <p>11 HB 626 of photo ID legislation with the drafter of the</p> <p>12 bill at the time it was being prepared?</p> <p>13 MS. DONNELLY: I'm going to object.</p> <p>14 That calls for information that's protected by</p> <p>15 legislative privilege.</p> <p>16 And to the extent that that privilege</p> <p>17 belongs to the author of 626, instruct the witness not</p> <p>18 to answer.</p> <p>19 A. I'm going to need to declare legislative</p> <p>20 privilege on that. I can't betray somebody else's</p> <p>21 legislative privilege.</p> <p>22 Q. (BY MR. GEAR) And for the record, did you</p> <p>23 discuss HB 218 with the author of that bill prior to</p> <p>24 its introduction?</p> <p>25 MS. DONNELLY: Same objection. Covered</p>	<p style="text-align: right;">152</p> <p>1 Q. And are you a member of any particular</p> <p>2 committee on the Texas Conservative</p> <p>3 Committee -- Commission or have you been a member of</p> <p>4 any particular committee?</p> <p>5 A. I don't think I -- I don't think I've been on</p> <p>6 a committee. I may have been, but I don't recall.</p> <p>7 Q. Have you been on any task forces related to</p> <p>8 the Texas Conservative Coalition?</p> <p>9 A. Again, I may have been. I don't recall.</p> <p>10 Over a period of 14 years, it's hard to remember all</p> <p>11 those details.</p> <p>12 Q. And you're still a member of the Texas</p> <p>13 Conservative Coalition?</p> <p>14 A. I assume so, if I'm all paid up. I don't</p> <p>15 know. I'll make that assumption.</p> <p>16 (Riddle Exhibit 160 marked/introduced.)</p> <p>17 Q. (BY MR. GEAR) Putting in front of you what's</p> <p>18 been marked Exhibit 160, and I'll give you a chance to</p> <p>19 take a look at that.</p> <p>20 A. Okay.</p> <p>21 Q. And are you finished looking at it?</p> <p>22 A. Well, I've not read the whole thing, but,</p> <p>23 yeah, I can -- I was going to ask, is it possible for</p> <p>24 me to be excused to go to the ladies' room?</p> <p>25 MR. SCOTT: Sure.</p>

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<p style="text-align: right;">153</p> <p>1 (Break.)</p> <p>2 Q. (BY MR. GEAR) So I had asked you to take a</p> <p>3 look at Exhibit 160.</p> <p>4 Have you had a chance to look at Exhibit 160?</p> <p>5 A. Well, of course I couldn't read it. I've</p> <p>6 just looked at the title and kind of thumbed through</p> <p>7 it.</p> <p>8 Q. Okay. And what is the title of Exhibit 160?</p> <p>9 A. "State Approaches to Illegal Immigration."</p> <p>10 Q. Have you seen this report before?</p> <p>11 A. I don't recall having seen it. I may have,</p> <p>12 but I don't recall.</p> <p>13 Q. Do you recall if you served on a task force</p> <p>14 for the Texas Conservative Coalition Research</p> <p>15 Institute?</p> <p>16 A. Well, it says here that I was on the task</p> <p>17 force, so I must have. When was this? This is in</p> <p>18 2006, for crying out loud.</p> <p>19 Q. And it's October 2006, to be exact.</p> <p>20 A. October 2006. How many years ago is that?</p> <p>21 Q. Well, is there -- and you're looking at page</p> <p>22 2, I -- I would put for the record, and it's titled</p> <p>23 "Acknowledgments."</p> <p>24 Was there anyone else on your staff that was</p> <p>25 acknowledged as working on the task force in 2006?</p>	<p style="text-align: right;">155</p> <p>1 A. Uh-huh.</p> <p>2 Q. As a member of the task force, do you recall</p> <p>3 conducting research on the issue of voting,</p> <p>4 citizenship and identity?</p> <p>5 A. I'm really embarrassed. I -- this was so</p> <p>6 long ago, so much goes on every session, so much goes</p> <p>7 on during every interim, I really don't remember this</p> <p>8 at all.</p> <p>9 Q. Do you recall what the purpose of -- of this</p> <p>10 report, "State Approaches to Illegal Immigration,"</p> <p>11 was?</p> <p>12 A. I can tell you what it says, but I don't -- I</p> <p>13 don't know how many times I have to tell you or how</p> <p>14 many ways I have to tell you, I truly don't remember</p> <p>15 this. This was many years ago. A lot goes on every</p> <p>16 session, a lot goes on every interim. And to ask me</p> <p>17 about details on this, no, I don't remember. But if</p> <p>18 it has it here in writing, well, I guess it's the</p> <p>19 case, so you tell me.</p> <p>20 Q. Well, I also cannot answer questions. But</p> <p>21 let me just pose a different question to you.</p> <p>22 During the time period of 2006, do you recall</p> <p>23 conducting analysis regarding the attitudes of -- of</p> <p>24 Texas citizens regarding illegal immigration?</p> <p>25 A. Me personally doing that?</p>
<p style="text-align: right;">154</p> <p>1 A. A member of my staff?</p> <p>2 Q. Yes.</p> <p>3 A. I don't see any staff members on -- yeah, Jon</p> <p>4 English. Yes, Jon English is my chief of staff.</p> <p>5 Holy cow, I would have never remembered this</p> <p>6 had I not looked at it.</p> <p>7 Q. And he worked on the task force along with</p> <p>8 you in October of 2006?</p> <p>9 A. I -- according to this, he has been. I truly</p> <p>10 don't remember it. This was some time ago. I'm</p> <p>11 really -- I'm really flattered that y'all think my</p> <p>12 memory is so wonderful. That's astounding.</p> <p>13 Q. I want to direct your attention to page 8.</p> <p>14 A. Eight years ago.</p> <p>15 Q. I'll give you a chance to look at page 8.</p> <p>16 A. Page 8. Okay.</p> <p>17 Eight years ago. Man. That's before some of</p> <p>18 the grandchildren were even born.</p> <p>19 Q. Have you had a chance to look at page 8?</p> <p>20 A. I grabbed a donut. I'm sorry.</p> <p>21 Q. And direct your attention to number 1 on page</p> <p>22 8.</p> <p>23 A. Uh-huh.</p> <p>24 Q. And that's titled "Voting, Citizenship, and</p> <p>25 Identity."</p>	<p style="text-align: right;">156</p> <p>1 Q. As a member of the task force.</p> <p>2 A. No. That's a long time ago. I don't recall.</p> <p>3 I wish I did. I wish I had all the answers to your</p> <p>4 questions. Sure makes me feel stupid not doing it,</p> <p>5 but I -- all I can tell you is what my memory recalls,</p> <p>6 and I -- I still don't think y'all understand that</p> <p>7 every session, we deal with so many things, and at the</p> <p>8 end of session, on sine die -- which is Latin for</p> <p>9 Miller time -- we -- it just sort of, like -- I'm</p> <p>10 mentally -- and most of us mentally just shove it, you</p> <p>11 know, bam. And then we go into our interim, and then</p> <p>12 we go into our next session. And then after that</p> <p>13 session, we shelve it.</p> <p>14 To remember all these minute details of every</p> <p>15 session, there's not a member in the legislature that</p> <p>16 can do that.</p> <p>17 Q. Was illegal immigration or is illegal</p> <p>18 immigration an important issue to you?</p> <p>19 A. Yes, it is. However, you're asking me about</p> <p>20 details of -- of meetings and minute things that</p> <p>21 occurred years ago. And to say, "Well, if illegal</p> <p>22 immigration is important to you, then you should</p> <p>23 remember absolutely everything." That's like saying,</p> <p>24 "If you love your mother, then you shouldn't forget a</p> <p>25 single thing she ever did in your life."</p>

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<p style="text-align: right;">157</p> <p>1 Q. Well, is it your understanding that illegal</p> <p>2 immigration and voting are one and the same?</p> <p>3 MS. DONNELLY: Objection. Form.</p> <p>4 A. I can answer that under seal.</p> <p>5 Not necessarily.</p> <p>6 Q. (BY MR. GEAR) And why not?</p> <p>7 A. There are people that come here illegally</p> <p>8 that have no intention of voting.</p> <p>9 Q. And in reviewing the report "State Approaches</p> <p>10 to Illegal Immigration," Exhibit 160, is it fair to</p> <p>11 say that this report focuses heavily on illegal</p> <p>12 immigration and voting?</p> <p>13 A. I have no memory of this report. I'd have to</p> <p>14 sit down, sir, and read this entire report to answer</p> <p>15 your question.</p> <p>16 Q. Well, just referring your attention directly</p> <p>17 to page 8, "Voting, Citizenship, and Identity," is it</p> <p>18 your testimony that you have no memory of voting,</p> <p>19 citizenship and identity being compared to photo ID</p> <p>20 legislation?</p> <p>21 A. What, now? Okay. I'm on page 8. B? Are</p> <p>22 you talking to B?</p> <p>23 Q. I'm talking about number 1.</p> <p>24 A. Okay. Number 1.</p> <p>25 Q. "Voting, Citizenship, and Identity."</p>	<p style="text-align: right;">159</p> <p>1 MR. GEAR: I move to strike as</p> <p>2 nonresponsive.</p> <p>3 Q. (BY MR. GEAR) And I'd like you to set the</p> <p>4 exhibit aside for a second, and I'll ask you questions</p> <p>5 beyond the exhibit. So I'm not asking you to focus on</p> <p>6 the exhibit now. I'm asking you, in the course of</p> <p>7 your consideration of photo ID legislation, did you</p> <p>8 ever conduct analysis that looked at voting,</p> <p>9 citizenship and identity?</p> <p>10 A. I've already answered that question, and I</p> <p>11 told you that, unlike Washington, D.C., that you're</p> <p>12 very familiar with, we do not have unlimited amounts</p> <p>13 of money. Here in Texas, we're much more responsible</p> <p>14 with our funds, and our budgets are very limited, and</p> <p>15 I do not have the funds to conduct the kind of</p> <p>16 analysis that you're talking about.</p> <p>17 MS. DONNELLY: I didn't get a chance to</p> <p>18 object. Legislative privilege. That question was</p> <p>19 answered under seal.</p> <p>20 Q. (BY MR. GEAR) And you're answering that</p> <p>21 question under seal?</p> <p>22 A. Under seal.</p> <p>23 Q. And your answer to that question was, no, you</p> <p>24 did not conduct that analysis?</p> <p>25 A. I do not have the --</p>
<p style="text-align: right;">158</p> <p>1 A. Okay.</p> <p>2 Q. Is it your testimony that you have no memory</p> <p>3 of voting, citizenship and identity being tied to</p> <p>4 photo ID legislation?</p> <p>5 A. You're asking me -- you're trying to set a</p> <p>6 trap, and I don't want to walk into a trap.</p> <p>7 Q. No, I'm not trying to set a trap, and I don't</p> <p>8 mean to cut you off.</p> <p>9 A. Yeah, you are. And what I'm -- you've handed</p> <p>10 me something that I have no memory of. And I've told</p> <p>11 you repeatedly, I have no memory of this. I don't</p> <p>12 mind taking the time to sit down and read it, but this</p> <p>13 was done back in 2006, for crying out loud. October</p> <p>14 2006. It is now, what, 2014, and you're asking me</p> <p>15 details of something that goes back that's how many</p> <p>16 pages? I don't think you yourself, as smart as I know</p> <p>17 you are, could do this. And I think it's unfair for</p> <p>18 you to ask me. And so I'm trying to answer your</p> <p>19 questions as honestly and as straightforward as I can,</p> <p>20 but you're asking me, you know, kind of "When did you</p> <p>21 stop beating your wife" kind of a question.</p> <p>22 Q. Are you finished?</p> <p>23 A. No. I want you to -- if you're going to ask</p> <p>24 me questions, ask me direct questions that are fair</p> <p>25 and right that I can look here and answer.</p>	<p style="text-align: right;">160</p> <p>1 MS. DONNELLY: Same objection.</p> <p>2 A. -- funds.</p> <p>3 Same objections. Under seal.</p> <p>4 And quite frankly, I do not have the funds to</p> <p>5 conduct all of the analyses that you're asking if we</p> <p>6 conducted. That's insane. We do not have the funds</p> <p>7 to do that as individual state representatives.</p> <p>8 Q. (BY MR. GEAR) Did you undertake any analysis</p> <p>9 regarding any photo ID legislation --</p> <p>10 THE WITNESS: He has no understanding of</p> <p>11 what I'm saying, does he?</p> <p>12 Q. (BY MR. GEAR) I'm sorry, did you have a</p> <p>13 response? I was asking a question. I just appreciate</p> <p>14 you allowing me to at least ask the question so we're</p> <p>15 not talking over the court reporter. So let me try to</p> <p>16 ask that question again.</p> <p>17 During your consideration of any photo ID</p> <p>18 legislation, did you undertake any analysis to address</p> <p>19 the concerns of opponents of any of the photo ID</p> <p>20 legislation?</p> <p>21 MS. DONNELLY: I'm going to object.</p> <p>22 Calls for information covered by the legislative</p> <p>23 privilege.</p> <p>24 I think we've gone over this before,</p> <p>25 respectfully, and allow the witness to answer if she</p>

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<p style="text-align: right;">161</p> <p>1 would like to answer. The answer will be under seal.</p> <p>2 A. I feel like you're at the point of badgering</p> <p>3 me, because I've said repeatedly that none of us in</p> <p>4 the legislature have the kind of funds to conduct the</p> <p>5 type of analyses that you're referring to. As close</p> <p>6 as we can get to an analysis is what we hear in our</p> <p>7 committee hearings or maybe what other organizations</p> <p>8 might do or bring to us.</p> <p>9 But you're asking -- so you can ask me from</p> <p>10 now until the cows come home, "Did you conduct an</p> <p>11 analysis?" You can ask me if I conducted an analysis</p> <p>12 on horses. The answer to that is, no, we do not have</p> <p>13 the funds to conduct the types of analysis that you're</p> <p>14 used to in Washington, D.C. We do not spend money we</p> <p>15 do not have, and we're given a budget, and we cannot</p> <p>16 exceed that budget.</p> <p>17 Q. (BY MR. GEAR) So is it fair to say that you</p> <p>18 did not review any analysis regarding any of the</p> <p>19 issues that were raised as a concern by the opponents</p> <p>20 of photo ID legislation?</p> <p>21 MS. DONNELLY: I'm going to object to</p> <p>22 the form of the question. I'm also going to object</p> <p>23 because the question calls for information covered by</p> <p>24 the legislative privilege.</p> <p>25 You may answer subject to that</p>	<p style="text-align: right;">163</p> <p>1 under seal.</p> <p>2 A. Under seal, the vast majority, the huge,</p> <p>3 overwhelming majority of my constituents are very</p> <p>4 concerned about illegal immigration. Even to this</p> <p>5 good day, they want security on our border, and they</p> <p>6 felt very strongly about having voter photo ID for all</p> <p>7 of the reasons I've said repeatedly. And that is the</p> <p>8 overall consensus of -- of my constituency and I</p> <p>9 believe others in the community that may not be in my</p> <p>10 district.</p> <p>11 Q. (BY MR. GEAR) And did your constituents</p> <p>12 express concern regarding noncitizens or illegal</p> <p>13 aliens voting at the polls?</p> <p>14 A. They expressed concern about anybody voting</p> <p>15 at the polls that was not registered to vote or would</p> <p>16 not be able to vote legally.</p> <p>17 Q. And my question was: Did they express</p> <p>18 concerns regarding noncitizens or illegal aliens</p> <p>19 voting at the polls?</p> <p>20 A. Along -- yes, along with anyone else who</p> <p>21 would be voting illegally.</p> <p>22 Q. And did you attempt to determine at any time</p> <p>23 whether or not their concerns regarding noncitizens or</p> <p>24 illegal aliens voting at the polls was valid?</p> <p>25 MS. DONNELLY: Objection. Calls for</p>
<p style="text-align: right;">162</p> <p>1 objection, and the answer will be under seal, if you</p> <p>2 want to.</p> <p>3 A. You asked me if I reviewed any, not if I</p> <p>4 conducted any?</p> <p>5 Q. (BY MR. GEAR) That's correct.</p> <p>6 A. Those are two separate questions.</p> <p>7 Q. Correct.</p> <p>8 A. One I would have to pay for, the other I</p> <p>9 would simply review if an outside organization</p> <p>10 conducted it. I do not recall.</p> <p>11 Q. I want to try to explore your knowledge of</p> <p>12 what the attitude of Texas citizens was in 2006 during</p> <p>13 the consideration of photo ID legislation.</p> <p>14 Did you consider the attitude of your</p> <p>15 constituents towards illegal immigration in 2006?</p> <p>16 MS. DONNELLY: Objection. Calls for</p> <p>17 information covered by legislative privilege.</p> <p>18 You may answer if you'd like, and it</p> <p>19 will be -- your answer will be under seal.</p> <p>20 A. Under seal, the answer to that question is</p> <p>21 yes, sir.</p> <p>22 Q. (BY MR. GEAR) And what, related to their</p> <p>23 attitude, did you consider?</p> <p>24 MS. DONNELLY: Same objection. The</p> <p>25 answer, again, if you would like to answer, it is</p>	<p style="text-align: right;">164</p> <p>1 information covered by legislative privilege.</p> <p>2 You may answer under seal if you would</p> <p>3 like.</p> <p>4 A. Once again, I told you that we do not have</p> <p>5 the funds to conduct the type of analysis; but from</p> <p>6 the anecdotal information I had received, I felt like</p> <p>7 that it was important for us to make sure that our</p> <p>8 ballot boxes were, in fact, secure.</p> <p>9 Q. (BY MR. GEAR) Did you receive anything other</p> <p>10 than anecdotal evidence regarding noncitizens or</p> <p>11 illegal aliens voting at the polls?</p> <p>12 MS. DONNELLY: Same objection.</p> <p>13 You may answer under seal.</p> <p>14 A. I don't recall anything specifically, but</p> <p>15 this was some time ago. I don't want to give an</p> <p>16 incorrect answer, so I'm going to have to say I don't</p> <p>17 recall at this point.</p> <p>18 Q. (BY MR. GEAR) Referring your attention to</p> <p>19 Exhibit 158 -- and I'll give you a chance to pull</p> <p>20 that.</p> <p>21 A. Okay.</p> <p>22 Q. And specifically, turning your attention to</p> <p>23 page 6.</p> <p>24 MS. DONNELLY: Mr. Gear, same objection</p> <p>25 on any questions regarding the documents that have</p>

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<p style="text-align: right;">173</p> <p>1 A. It was -- it was -- having that included was, 2 I think, that they -- the consensus would say that it 3 was a step in the right direction, but it was 4 something they weren't thrilled with. Their primary 5 thing that they wanted was voter photo ID. Pretty -- 6 pretty plain and simple. 7 Q. So what changed between HB 218, HB 1706, 8 SB 362 photo ID legislation with your constituents 9 that would have made them think that nonphoto ID was 10 not a step in the right direction? 11 MS. DONNELLY: We're still running 12 objection, right? This is still all under seal, 13 correct? 14 MR. GEAR: Sure. 15 A. Nothing changed with the constituency. We 16 got more of a majority in the House. So we were able 17 to comply more with what our constituency was asking 18 for and not having to compromise quite as much. 19 Q. (BY MR. GEAR) So is it your testimony that 20 you limited the forms of ID under SB 14 because you 21 had a majority in the House? 22 A. We were able, at that point, with more of a 23 majority, to not be forced into making compromises 24 that, quite frankly, my constituency was not 25 necessarily pleased with.</p>	<p style="text-align: right;">175</p> <p>1 MS. DONNELLY: Okay. Thank you. 2 (Break.) 3 Q. (BY MR. GEAR) Forgive me if this was asked 4 already, but was photo ID legislation important to 5 you? 6 MS. DONNELLY: This has been asked. 7 This has been asked. 8 A. Was it important? (Laughing.) Yes. Does a 9 plane have wings? Yes. 10 Q. (BY MR. GEAR) Do you recall -- 11 A. I apologize. Oh, my goodness. Okay. 12 Q. That was a segue to my question. 13 Do you recall -- 14 A. I didn't mean to be rude. I apologize. 15 Q. That's okay. 16 Do you recall a time period where you 17 actually camped out to file your photo identification 18 legislation first? 19 A. Yes. Uh-huh. I recall that very well. 20 Q. And why did you camp out? And if you'd like 21 to use a different term, please do. 22 A. Oh, "camp out" is good. That's what I did. 23 I had asked the speaker for a low bill number, what's 24 called a -- a privileged or a low bill number that the 25 speaker reserves, like, about the first 10, 15 bill</p>
<p style="text-align: right;">174</p> <p>1 Q. Is it fair to say that there were amendments 2 offered during the -- I call it the debate, you may 3 call it something different -- the public record on 4 SB 14 in the House that would have mitigated some of 5 the concerns that the opponents of SB 14 had? 6 A. I don't remember the amendments. 7 Q. Was there an amendment that -- I'll withdraw 8 that question. 9 MR. GEAR: Why don't we take a 10 five-minute break. 11 MS. DONNELLY: I'm sorry, before we 12 do -- I didn't want to interrupt your line of 13 questioning. 14 MR. GEAR: Sure. 15 MS. DONNELLY: This last line of 16 questioning, we kind of talked about -- 17 MR. ROSENBERG: Subject to -- 18 MS. DONNELLY: -- the running objection, 19 but this whole last line of questioning, from the time 20 that I asked for a running objection to now, when 21 we're taking the break, that's all under seal, 22 correct? 23 MR. GEAR: Correct. 24 MR. ROSENBERG: That's correct. 25 MR. GEAR: I understood that.</p>	<p style="text-align: right;">176</p> <p>1 numbers, and those are bills that are -- are 2 considered very important by the speaker. And I was 3 denied. And so I, by golly, wanted to be the first 4 one in line. So in order to do that, I camped out. 5 And it was not outside, it was I just 6 stayed -- because we file our bills, the numbers given 7 are in order of when we do it, not -- not when they're 8 given to leg' counsel. And so the chief clerk's 9 office is where they're filed, that's off the floor of 10 the House chamber, and I kind of camped out right at 11 the door of the House chamber. And I didn't think 12 anybody would notice, quite frankly, but then the 13 whole world found out about it. I did it just to 14 prove a point. 15 Q. And what was the point you were proving? 16 A. I wanted a low bill number. But a low bill 17 number doesn't automatically mean you pass your bill. 18 Q. Are we referring to HB 16 as the bill that 19 you camped out to file? 20 A. Uh-huh. 21 Q. And was that a bill which your constituents 22 asked you to file? 23 A. On the voter photo ID? 24 Q. Yes. 25 A. That's why I was laughing so hard. That was</p>

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<p style="text-align: right;">177</p> <p>1 their very high priority.</p> <p>2 Q. And did you discuss HB 16 with your</p> <p>3 constituents?</p> <p>4 A. They discussed it with me, yeah. Uh-huh.</p> <p>5 Q. And what concerns did they raise to you</p> <p>6 regarding photo ID legislation in that time period?</p> <p>7 A. They were insisting that they wanted to make</p> <p>8 sure that the integrity of the ballot box is, in fact,</p> <p>9 secure.</p> <p>10 Q. So when they insisted regarding the integrity</p> <p>11 of the ballot box, did they provide reasons why they</p> <p>12 thought the integrity of the ballot box was not</p> <p>13 secure?</p> <p>14 A. They wanted the ballot box secure. They</p> <p>15 wanted the integrity of the ballot box secure.</p> <p>16 Q. Right.</p> <p>17 And my question was: Did they provide</p> <p>18 reasons for --</p> <p>19 A. Some did, some didn't. But they all -- the</p> <p>20 one thing they all had in common is, they wanted to</p> <p>21 make sure that the integrity of the ballot box was</p> <p>22 secure. And, quite frankly, even to this good day,</p> <p>23 they do not understand at all why anybody would</p> <p>24 object. Even my last conversation with my</p> <p>25 constituents, which was yesterday, they just don't</p>	<p style="text-align: right;">179</p> <p>1 the ballot box, then nobody has to prove that that</p> <p>2 individual, that their concerns are not valid if they</p> <p>3 don't have an entire court case to prove it to me. If</p> <p>4 they have a concern, then I take their concern</p> <p>5 seriously.</p> <p>6 Q. And as you've testified, you did not take any</p> <p>7 steps to conduct any type of analysis to find out if</p> <p>8 their concerns were valid or imagined; is that right?</p> <p>9 A. We do not have the budget, as a state</p> <p>10 representative, to do that. You don't understand. We</p> <p>11 do not spend money we do not have, unlike Washington,</p> <p>12 D.C., and the Obama administration.</p> <p>13 Q. And I understand your answer, and the answer</p> <p>14 was no?</p> <p>15 A. How many times have I said no? I don't know</p> <p>16 how many other times I can say the same answer.</p> <p>17 Q. Fair enough.</p> <p>18 MR. GEAR: I think, at this point, I'll</p> <p>19 pass the witness.</p> <p>20 THE WITNESS: Thank you.</p> <p>21 E X A M I N A T I O N</p> <p>22 BY MS. FARANSSO:</p> <p>23 Q. Representative Riddle, again, I'm Tania</p> <p>24 Faransso, and I'm here on behalf of the Texas League</p> <p>25 of Young Voters Education Fund.</p>
<p style="text-align: right;">178</p> <p>1 understand why anybody could or would ever object to</p> <p>2 it. And those that do, they find suspicious.</p> <p>3 Q. Did any of your constituents identify the</p> <p>4 reason why they thought the ballot box was not secure</p> <p>5 was because noncitizens or illegal aliens are voting?</p> <p>6 A. They feel like insurance -- it's kind of like</p> <p>7 insurance. You don't buy insurance on your car after</p> <p>8 you have a wreck. You buy insurance on the car in</p> <p>9 case you have a wreck. They felt like that there were</p> <p>10 probably violations, they didn't necessarily know all</p> <p>11 the violations or any of the violations. But they are</p> <p>12 a well-educated lot of folks, and they wanted to make</p> <p>13 sure that the ballot boxes were, in fact, secure, that</p> <p>14 the integrity of the ballot box was well-established,</p> <p>15 and they felt like a voter photo ID would accomplish</p> <p>16 that to a large degree. Maybe not completely, but it</p> <p>17 would help take care of a large part of the problem.</p> <p>18 Whether it's real or imagined, that's what they</p> <p>19 wanted.</p> <p>20 Q. Did you or your staff attempt to determine</p> <p>21 whether or not their concerns were real or imagined?</p> <p>22 A. Their concerns are valid.</p> <p>23 Q. And how do you know that? What steps did you</p> <p>24 take --</p> <p>25 A. If my constituents have a concern regarding</p>	<p style="text-align: right;">180</p> <p>1 And just before I begin, quickly, do you</p> <p>2 understand that the same ground rules that applied</p> <p>3 when Mr. Gear and Mr. Rosenberg were questioning you</p> <p>4 will apply when I'm asking you questions?</p> <p>5 A. Who is that group? I'm not familiar with the</p> <p>6 group.</p> <p>7 Q. It's a public interest group here in Texas</p> <p>8 that works on behalf of young voters.</p> <p>9 A. Really? Who funds you? Who does your</p> <p>10 funding?</p> <p>11 Q. Well, I'm their attorney, so I'm not part of</p> <p>12 the group. So those may be questions for another</p> <p>13 time.</p> <p>14 A. Are they a 501(c) group?</p> <p>15 Q. I believe so.</p> <p>16 A. Okay. I'm curious as to who funds them. Who</p> <p>17 does their funding?</p> <p>18 Q. I'm -- you know, I don't know if that's --</p> <p>19 this is the appropriate time to get into it, given</p> <p>20 that we are looking to keep things moving along. So</p> <p>21 if I can, I'll just go ahead and turn to my questions.</p> <p>22 A. Okay.</p> <p>23 Q. Do you recall, during your conversation with</p> <p>24 Mr. Rosenberg about Senate Bill 14, that among the</p> <p>25 list of permitted forms of identification for</p>

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<p style="text-align: right;">181</p> <p>1 verifying one's identity at the polls, that that list</p> <p>2 did not include student ID?</p> <p>3 A. Uh-huh.</p> <p>4 Q. You recall that.</p> <p>5 And if I can have you look at --</p> <p>6 MS. FARANSSO: Have you marked this</p> <p>7 document?</p> <p>8 THE REPORTER: It will be 161.</p> <p>9 (Riddle Exhibit 161 marked/introduced.)</p> <p>10 Q. (BY MS. FARANSSO) Representative, do you</p> <p>11 recognize or know what this document is that is</p> <p>12 Exhibit 161?</p> <p>13 A. Okay. It says it's the House journal of the</p> <p>14 82nd legislative regular session.</p> <p>15 Q. And that was the session that considered</p> <p>16 Senate Bill 14; is that right?</p> <p>17 A. Uh-huh.</p> <p>18 Q. If you could please turn to page 979 of</p> <p>19 Exhibit 161.</p> <p>20 A. 979?</p> <p>21 Q. Yes. That's right.</p> <p>22 And take a look at that page specifically and</p> <p>23 Amendment No. 23 that's listed there.</p> <p>24 A. Okay.</p> <p>25 Q. And do you see that that's an amendment to</p>	<p style="text-align: right;">183</p> <p>1 A. Probably right around this time. I don't</p> <p>2 recall. But kind of right around that time, I would</p> <p>3 guess. I don't recall.</p> <p>4 Q. And just for the record, do you recall that</p> <p>5 in the same legislative session, you had proposed</p> <p>6 HB 16, which did, in fact, include student ID as a</p> <p>7 form of identification?</p> <p>8 A. When I had that drafted, I did not give it</p> <p>9 that thought or was not aware of that.</p> <p>10 Q. More specifically, if you could elaborate on</p> <p>11 what you were just speaking about.</p> <p>12 What changed, in your mind, with respect to</p> <p>13 whether student identification was a permitted form</p> <p>14 of -- or an acceptable form of identification for</p> <p>15 purposes of voting between the time you drafted HB 16</p> <p>16 and the time that you were considering Senate Bill 14,</p> <p>17 which, again was in the same legislative session?</p> <p>18 MS. DONNELLY: Objection. The</p> <p>19 information covers information covered by legislative</p> <p>20 privilege.</p> <p>21 You can answer if you want, but it's</p> <p>22 under seal.</p> <p>23 A. I just got through telling you.</p> <p>24 Q. (BY MS. FARANSSO) I'm sorry, would you mind</p> <p>25 telling me again? There's been a lot of questions</p>
<p style="text-align: right;">182</p> <p>1 insert into Senate Bill 14 a student identification</p> <p>2 card issued by a public or private high school or</p> <p>3 institution of higher education that contains that</p> <p>4 person's photograph?</p> <p>5 A. Yes.</p> <p>6 Q. And do you also see that you -- that</p> <p>7 Representative Phillips moved to table that amendment,</p> <p>8 and you voted in favor of tabling that amendment?</p> <p>9 A. Yes.</p> <p>10 Q. What was your basis for voting to table</p> <p>11 Amendment 23 to include student identification as a</p> <p>12 permitted form of ID in Senate Bill 14?</p> <p>13 MS. DONNELLY: Objection. Calls for</p> <p>14 information covered by legislative privilege.</p> <p>15 You may answer if you like, but it will</p> <p>16 be under seal.</p> <p>17 A. Under seal, it had come to my attention that</p> <p>18 there was concern that out-of-state students were</p> <p>19 possibly voting twice, both in the location where</p> <p>20 their college or university was, and then also voting</p> <p>21 again where their home was. That seemed like a --</p> <p>22 kind of a serious -- serious fracture in the integrity</p> <p>23 of the ballot box. A serious crack, if you will.</p> <p>24 Q. (BY MS. FARANSSO) At what point did that come</p> <p>25 to your attention?</p>	<p style="text-align: right;">184</p> <p>1 today, so...</p> <p>2 A. I just got through telling you that there was</p> <p>3 some concern that had been brought up that students --</p> <p>4 the concern was that students had, or we were told had</p> <p>5 possibly voted both in the area where their school or</p> <p>6 university was and then traveled home and voted again.</p> <p>7 Q. (BY MS. FARANSSO) So those were concerns that</p> <p>8 were coming up during the debate of Senate Bill 14?</p> <p>9 A. If I remember correctly, this was one of the</p> <p>10 reasons why I voted to table that.</p> <p>11 Q. So were you aware of any specific pieces</p> <p>12 suggesting that student IDs were being used</p> <p>13 fraudulently at the polling place?</p> <p>14 MS. DONNELLY: Same objection. Covered</p> <p>15 by legislative privilege.</p> <p>16 You can answer if you want.</p> <p>17 Do you want to have a running objection</p> <p>18 to this line of questions as being answered under</p> <p>19 seal?</p> <p>20 MS. FARANSSO: Sure.</p> <p>21 A. I don't recall.</p> <p>22 Q. (BY MS. FARANSSO) So you don't recall any</p> <p>23 specific testimony regarding student IDs being</p> <p>24 fraudulently used at the polling place?</p> <p>25 A. Huh-uh.</p>

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<p style="text-align: right;">185</p> <p>1 Q. Representative, do you recall any analysis 2 that was discussed or reviewed on the record during 3 the debate as to whether student IDs were being used 4 fraudulently at the polling place? 5 A. I don't recall. 6 Q. And do you -- just a couple more questions. 7 Do you recall any discussion about the impact 8 of removing student IDs as an acceptable form of 9 identification on, for example, student turnout? 10 A. I -- I really don't recall. 11 (Mr. Rosenberg and Mr. Scott left the room). 12 Q. (BY MS. FARANSSO) And finally, do you recall 13 any discussion about the impact of removing student 14 IDs as an acceptable form of identification on the 15 turnout of minority voters? 16 A. No, I don't recall that at all. 17 Q. And do you recall any alternatives that were 18 considered to include student IDs in Senate Bill 14, 19 any alternatives to ensure that those may be permitted 20 in the bill? 21 A. There may have been, but I don't recall. 22 This is some time ago. 23 MS. FARANSSO: Okay. I think that's all 24 my questions. I think that's all my questions, unless 25 anyone has any others. And I think, if we can keep</p>	<p style="text-align: right;">187</p> <p>1 I'm agreeable that, to the extent there have been some 2 lines of questioning as to which there was indicated 3 that there was continuing objections as to privilege, 4 that they will be handled as continuing objections. I 5 don't think we have any problems on this record. 6 MR. SCOTT: Yes. But I meant from the 7 standpoint of sealing -- for purposes of just making 8 sure that this -- the highly confidential matters do 9 not become commingled with anything else 10 inadvertently. There's documents that are portions of 11 the exhibits attached to the deposition. All the 12 documents should be sealed that are of a highly 13 confidential nature. 14 MR. ROSENBERG: Agreed. And I'm 15 willing, certainly, to wait until after you've had a 16 chance to review the transcript to make sure that 17 there's not been anything that's fallen outside the 18 cracks of highly confidential for it to be remaining. 19 MR. SCOTT: And I guess, from a -- I'm 20 just talking from a housekeeping standpoint, how are 21 we going to have her deliver the deposition? 22 MR. ROSENBERG: I think those should 23 be -- all the -- the reporter should take charge of 24 the exhibits, consider them under seal -- you probably 25 have a procedure for doing that -- and then deliver it</p>
<p style="text-align: right;">186</p> <p>1 the deposition open pending the resolution of the 2 various motions to compel responses -- 3 MS. DONNELLY: You mean the objections? 4 MS. FARANSSO: Yes. 5 MS. DONNELLY: To clarify for the 6 record, because I think I kind of muffled it, your 7 questions were all answered under seal. 8 MS. FARANSSO: That's correct. 9 MS. DONNELLY: And subject to the 10 legislative privilege. 11 Okay. Thank you. 12 MS. FARANSSO: Thank you. 13 MS. DONNELLY: So I think that's all the 14 questions that anybody has; is that -- am I correct? 15 MS. COHAN: I'll duck my head out and 16 just ask Ezra and John. 17 MR. GEAR: This is Bruce Gear speaking. 18 I would also hold the deposition open pending a 19 resolution of the -- of the issues on legislative 20 privilege. 21 MS. DONNELLY: I understand. 22 MS. COHAN: I think everybody's done. 23 MR. SCOTT: Let's go on the record on 24 this one, because I don't know how to handle this. 25 MR. ROSENBERG: Well, to the extent --</p>	<p style="text-align: right;">188</p> <p>1 to the witness as the -- 2 MR. SCOTT: I don't think she does. 3 THE REPORTER: I can't talk and write. 4 MR. SCOTT: Okay. Do you have a 5 procedure for dealing with documents under seal? 6 THE REPORTER: I'm sure we probably do. 7 But if not, we will find one. 8 MR. ROSENBERG: There's two ways of 9 doing it: One is to leave it in the hands of 10 reporter, the other is to leave it in the hands of one 11 of the attorneys with the understanding that the 12 attorney has custody of the documents. I'm happy with 13 whatever works for you, John. 14 MR. SCOTT: Well, I want to get copies 15 of the exhibits attached to our copy, so let's make 16 sure she's got them for the purposes of doing that. 17 Or, Ezra, if you want to keep the exhibits and make a 18 copy for us. So let's give them to the court 19 reporter, let the court reporter maintain them and 20 make copies. 21 MR. ROSENBERG: I'd rather the court 22 reporter, because I don't want to travel with them. 23 MR. SCOTT: Perfect. And then if you 24 will make sure that any entries that were designated 25 sealed are done in such a way that no one -- that</p>

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1 (Pages 1 to 4)

1	<p>1 IN THE UNITED STATES DISTRICT COURT</p> <p>2 FOR THE SOUTHERN DISTRICT OF TEXAS</p> <p>3 CORPUS CHRISTI DIVISION</p> <p>4 MARC VEASEY, et al.,)</p> <p>Plaintiffs,)</p> <p>5 v.) CIVIL ACTION NUMBER</p> <p>6) 2:13-cv-193(NGR)</p> <p>7 RICK PERRY, et al.,)</p> <p>Defendants.)</p> <p>*****</p> <p>8 ORAL DEPOSITION OF</p> <p>9 TONY RODRIGUEZ</p> <p>10 MAY 8, 2014</p> <p>*****</p> <p>11 ORAL DEPOSITION OF TONY RODRIGUEZ, produced as a</p> <p>12 witness at the instance of Plaintiffs, and duly sworn,</p> <p>13 was taken in the above-styled and numbered cause on</p> <p>14 May 8, 2014, from 9:16 a.m. to 6:35 p.m. before Kim</p> <p>15 Seibert, CSR in and for the State of Texas, reported by</p> <p>16 machine shorthand, at the law offices of DECHERT LLP,</p> <p>17 300 West Sixth Street, Suite 2010, Austin, Texas,</p> <p>18 pursuant to the Federal Rules of Civil Procedure and/or</p> <p>19 the provisions stated on the record or attached hereto.</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	3
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3 (Pages 9 to 12)

<p style="text-align: right;">9</p> <p>1 Q. (BY MS. MARANZANO) Sir, first of all, I would 2 like to go through some ground rules for this 3 deposition. You've been placed under oath today, so 4 it's important that you testify truthfully, accurately, 5 and completely. Do you understand? 6 A. Yes. 7 Q. The court reporter will prepare a transcript 8 of everything that is said. So if you could wait until 9 I finish a question before you answer, and I'll wait 10 until you finish answering before I ask the next 11 question. Is that okay? 12 A. Yes. 13 Q. And if you would please just remember to 14 respond to my questions verbally instead of nodding or 15 shaking your head. Is that okay? 16 A. Yes. I'll try. 17 Q. Thank you. I will try to ask you clear 18 questions. If you don't understand a question, please 19 just stop and let me know. Is that okay? 20 A. Yes. 21 Q. If you wish to stop and take a break, let me 22 know and I will do my best to accommodate you. 23 From time to time your attorney may make 24 an objection. He's making that objection for the 25 record and unless he instructs you not to answer, you</p>	<p style="text-align: right;">11</p> <p>1 Q. And what is your position with them? 2 A. I'm a senior manager in the driver license 3 division. 4 Q. How long have you held that position? 5 A. About 2-1/2 years. 6 Q. Have you held any other positions at DPS? 7 A. No. 8 Q. What are your responsibilities? 9 A. In my capacity as a senior manager in the 10 driver license division, I'm responsible for the 11 operations of all of the driver license offices in DPS 12 Regions 3, 4, 5, 6A, and 6B. 13 Q. And what is the significance of those regions? 14 A. That's how the Department of Public Safety 15 geographically divides the state. 16 Q. So which geographic portion of the state is 17 that? 18 A. That's roughly described as the western 19 portion of the state. It extends from -- from the tip 20 of the -- the tip of the state into the Panhandle and 21 out to El Paso. And it also includes the central 22 portion of the state centered around Austin and 23 San Antonio. 24 Q. Okay. Does anybody report directly to you? 25 A. Yes.</p>
<p style="text-align: right;">10</p> <p>1 can go ahead and answer my question. Okay? 2 A. Yes. 3 Q. Do you understand these instructions? 4 A. Yes. 5 Q. Are you on any medication today that would 6 affect your ability to testify truthfully, accurately, 7 and completely? 8 A. No. 9 Q. Is there any other reason why you cannot 10 testify truthfully, accurately, and completely today? 11 A. No. 12 Q. Today during this deposition I may use the 13 term "EIC." When I do that I'm referring to an 14 election identification certificate. Is that okay? 15 A. That's fine. 16 Q. And I may use the term "DPS" today. And when 17 I use that term I'm referring to the Department of 18 Public Safety. Is that okay? 19 A. Yes. 20 Q. Okay. Are you employed? 21 A. Yes. 22 Q. Where are you employed? 23 A. Physically? 24 Q. No, the name of the entity that you work for. 25 A. The Department of Public Safety.</p>	<p style="text-align: right;">12</p> <p>1 Q. How many people? 2 A. My direct reports? 3 Q. Uh-huh. 4 A. The managers for those regions that I 5 indicated previously, they all report to me. And 6 that's about five. 7 Q. And what are their positions? 8 A. They're referred to as regional managers. 9 Q. Who do you report to? 10 A. I report to Deputy Assistant Director 11 Paul Watkins. 12 Q. And who does Mr. Watkins report to? 13 A. Paul reports to Assistant Director Joe Peters. 14 Q. And how many people are between you and DPS 15 director Steve McCraw? 16 A. Three, I believe. 17 Q. So Mr. Peters reports to -- 18 A. Mr. Peters report to Cheryl, Cheryl MacBride. 19 She's the deputy director. 20 Q. Okay. 21 A. And Cheryl reports to Director McCraw. 22 Q. Okay. Can you tell me what your 23 responsibilities are specifically with regard to EICs? 24 A. Yes. 25 Q. What are they?</p>

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4 (Pages 13 to 16)

<p style="text-align: right;">13</p> <p>1 A. I was asked to -- to be the agency point of</p> <p>2 contact or correction, the driver license point of</p> <p>3 contact for the EIC program.</p> <p>4 Q. And what does that mean, the agency point of</p> <p>5 contact?</p> <p>6 A. It means that I was responsible to oversee it</p> <p>7 from -- from its start, roughly June until the present</p> <p>8 time.</p> <p>9 Q. Are you still responsible for overseeing the</p> <p>10 program?</p> <p>11 A. Yes.</p> <p>12 Q. Was that -- I believe you said you were asked</p> <p>13 to do that?</p> <p>14 A. Yes.</p> <p>15 Q. Who asked you to do that?</p> <p>16 A. It was -- it was Paul Watkins and Joe Peters.</p> <p>17 Q. Did you -- did you request that role?</p> <p>18 A. Did I request it?</p> <p>19 Q. Uh-huh.</p> <p>20 A. No.</p> <p>21 Q. What was your training for that?</p> <p>22 A. I didn't receive any formal training for that.</p> <p>23 Q. Do you know why you were chosen for this role?</p> <p>24 A. It may have been -- well, it's speculative.</p> <p>25 MR. KEISTER: If you know.</p>	<p style="text-align: right;">15</p> <p>1 Q. Making sure that those individuals who receive</p> <p>2 an EIC are, in fact, eligible for an EIC.</p> <p>3 A. You're going to have to be more specific than</p> <p>4 that because I have -- as I've described, I have</p> <p>5 two responsibilities, my first responsibility within</p> <p>6 the DPS regions that I spoke to you about. And part of</p> <p>7 that is to -- is to ensure that customers or applicants</p> <p>8 who come to our offices receive the -- the documents,</p> <p>9 the election certificates or driver licenses or</p> <p>10 ID cards that they're seeking. So I have that</p> <p>11 responsibility. But I also have a responsibility to</p> <p>12 coordinate the election certificates.</p> <p>13 Q. Okay. And in your role as coordination --</p> <p>14 coordinator of the election certificates, do you -- is</p> <p>15 part of your role to ensure that individuals who are</p> <p>16 eligible for an EIC obtain an EIC?</p> <p>17 A. I -- I help establish the rules, the</p> <p>18 procedures, to allow individuals to -- who seek EICs</p> <p>19 and are eligible to receive those documents.</p> <p>20 Q. Okay. Do you have responsibility for ensuring</p> <p>21 the EIC program is a success?</p> <p>22 MR. KEISTER: Object, vague.</p> <p>23 Q. (BY MS. MARANZANO) Do you understand the</p> <p>24 question?</p> <p>25 A. Not entirely.</p>
<p style="text-align: right;">14</p> <p>1 THE WITNESS: It's -- my speculation --</p> <p>2 Q. (BY MS. MARANZANO) Uh-huh.</p> <p>3 A. -- is that it was because of my previous</p> <p>4 experience in the US Army.</p> <p>5 Q. And what experience is that?</p> <p>6 A. I was an Army strategist.</p> <p>7 Q. And what was your role as an Army strategist?</p> <p>8 A. I planned wars.</p> <p>9 Q. And why do you think that that experience was</p> <p>10 relevant to the -- to taking on the position overseeing</p> <p>11 the EIC program?</p> <p>12 A. In order to do that, I graduated from the</p> <p>13 School of Advanced Military Studies, and the curriculum</p> <p>14 in the School of Advanced Military Studies establishes</p> <p>15 a -- it establishes a plan or a way to design large</p> <p>16 operations.</p> <p>17 Q. Okay. Sir, did you say you were the statewide</p> <p>18 point of contact for the EIC program?</p> <p>19 A. Within the Department of Public Safety.</p> <p>20 Q. Is there a statewide point of contact within</p> <p>21 other agencies, other state agencies?</p> <p>22 A. There may be. I don't know.</p> <p>23 Q. Okay. Do you have a responsibility for</p> <p>24 ensuring that DPS is issuing EICs accurately?</p> <p>25 A. Yes. Define "accurate."</p>	<p style="text-align: right;">16</p> <p>1 Q. Do you have a responsibility for ensuring that</p> <p>2 the EIC program is run effectively?</p> <p>3 A. I don't understand what you mean by</p> <p>4 "effectively."</p> <p>5 Q. Do you have -- do you have a responsibility</p> <p>6 for ensuring -- actually, strike that.</p> <p>7 Can you tell me what percentage of your</p> <p>8 time is spent on the EIC program versus the -- your</p> <p>9 other role of overseeing the driver's license?</p> <p>10 A. That's -- it depends. And the reason that it</p> <p>11 depends is it will depend if we're in an election cycle</p> <p>12 or not. For example, in between election cycles we --</p> <p>13 I don't spend more than about 30 minutes a day as --</p> <p>14 and during an election cycle, as we're doing now, it</p> <p>15 may -- it may increase. But that information is</p> <p>16 reflected on my time card.</p> <p>17 Q. Okay. And have you given your time card to --</p> <p>18 to counsel for Texas?</p> <p>19 A. No.</p> <p>20 Q. Has he requested it from you?</p> <p>21 A. No.</p> <p>22 Q. I'm sorry.</p> <p>23 MR. KEISTER: Don't answer any questions</p> <p>24 about what you and I or any other counsel talked about.</p> <p>25 THE WITNESS: Sorry.</p>

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<p style="text-align: right;">17</p> <p>1 MR. KEISTER: That's all right.</p> <p>2 Q. (BY MS. MARANZANO) Can you tell me -- you</p> <p>3 said during an election cycle you spend more than</p> <p>4 30 minutes a day. What -- what do you define as an</p> <p>5 election cycle?</p> <p>6 A. I define an election cycle as the --</p> <p>7 approximately it's the period that leads up to an</p> <p>8 election and while the -- up to the point of the</p> <p>9 election; and then if there is a cure period, then that</p> <p>10 point in time after the election.</p> <p>11 Q. What -- when you say "the time leading up to</p> <p>12 election," what -- how -- how far before an election do</p> <p>13 you -- do you consider that starting?</p> <p>14 A. It depends. It will depend on a variety of</p> <p>15 things. The more elections that we've done, then the</p> <p>16 less time we need to prepare because the -- the</p> <p>17 procedures are already in place.</p> <p>18 Q. And did you say right now you consider</p> <p>19 yourself in an election cycle?</p> <p>20 A. Yes.</p> <p>21 Q. And when would you say this election cycle</p> <p>22 began?</p> <p>23 A. To the best of my knowledge, we started our --</p> <p>24 we started our daily meetings on the 28th of April.</p> <p>25 Q. The 28th of April. And you're leading up to</p>	<p style="text-align: right;">19</p> <p>1 A. Not to my mind, no.</p> <p>2 Q. And when you're in an election cycle can you</p> <p>3 tell me about how much time you spend on the EIC</p> <p>4 program?</p> <p>5 A. Well, it's variable, but, generally speaking,</p> <p>6 it can be between one to three hours a day.</p> <p>7 Q. Between -- have you ever spent more than</p> <p>8 three hours a day working on the EIC program?</p> <p>9 A. Yes.</p> <p>10 Q. And when was that?</p> <p>11 A. It was when the EIC program first started in</p> <p>12 June. And I certainly spent more than three hours a</p> <p>13 day preparing for this.</p> <p>14 Q. And when the EIC program started in June,</p> <p>15 about how much time did you spend on it?</p> <p>16 A. I couldn't tell you. It was a lot.</p> <p>17 Q. Okay. Do you understand that your testimony</p> <p>18 today is on behalf of the Department of Public Safety?</p> <p>19 A. Yes.</p> <p>20 (Exhibit No. 63 marked.)</p> <p>21 THE REPORTER: Exhibit 63.</p> <p>22 Q. (BY MS. MARANZANO) I'm showing you what we've</p> <p>23 marked for the record as Exhibit 63. Do you recognize</p> <p>24 this document?</p> <p>25 A. Stand by. Yes.</p>
<p style="text-align: right;">18</p> <p>1 which election?</p> <p>2 A. To the -- I should be able to rattle it off.</p> <p>3 There's primaries that are coming up.</p> <p>4 Q. Do you know when they're coming up, what the</p> <p>5 date is?</p> <p>6 A. I would have to look at a calendar, but it's</p> <p>7 in late May.</p> <p>8 Q. And can you tell me, prior to the March</p> <p>9 primary, when did you start spending more time on the</p> <p>10 EIC program?</p> <p>11 A. Probably around the beginning of April.</p> <p>12 Q. The beginning of the -- the April before the</p> <p>13 March primary, so almost 11 months?</p> <p>14 A. Oh, I'm sorry.</p> <p>15 Q. Is it --</p> <p>16 A. I can't remember.</p> <p>17 Q. Okay.</p> <p>18 A. Sorry.</p> <p>19 Q. Do you -- do you know approximately when?</p> <p>20 A. No. I would have to look at a calendar.</p> <p>21 Q. When do you anticipate the program gearing up</p> <p>22 in advance of the November general election?</p> <p>23 A. That will be a discussion between ourselves</p> <p>24 and the Secretary of State.</p> <p>25 Q. Has it geared up now?</p>	<p style="text-align: right;">20</p> <p>1 Q. What -- what is this?</p> <p>2 A. It's a notice of deposition.</p> <p>3 Q. Are you prepared to testify today about</p> <p>4 Topics 1, 3, and 4?</p> <p>5 A. Yes.</p> <p>6 Q. What did you do to prepare for today's</p> <p>7 deposition?</p> <p>8 A. Spoke with counsel.</p> <p>9 Q. Who did you meet with?</p> <p>10 A. Mr. Keister and Ms. Murphy.</p> <p>11 Q. Anybody -- was anybody else there?</p> <p>12 A. Present?</p> <p>13 Q. Present --</p> <p>14 A. No.</p> <p>15 Q. -- in that meeting.</p> <p>16 And when did you meet with Mr. Keister</p> <p>17 and Ms. Murphy?</p> <p>18 A. Sometime last week and this week.</p> <p>19 Q. Did you review any documents in preparation</p> <p>20 for today's deposition?</p> <p>21 A. Yes.</p> <p>22 Q. Which documents?</p> <p>23 A. Well, we reviewed the deposition. We reviewed</p> <p>24 the state statute. We reviewed the admin code. We</p> <p>25 reviewed other documents that escape me right now. Oh,</p>

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6 (Pages 21 to 24)

<p style="text-align: right;">21</p> <p>1 and I also have the documents that I brought with me.</p> <p>2 Q. And you said you reviewed the deposition?</p> <p>3 A. The notice of deposition.</p> <p>4 Q. Oh, the notice of deposition. Okay. Thank</p> <p>5 you.</p> <p>6 A. I'm not a lawyer.</p> <p>7 Q. Did you talk to anybody else about your</p> <p>8 deposition?</p> <p>9 A. Yes.</p> <p>10 Q. Who was that?</p> <p>11 A. I spoke with members of the DPS staff in</p> <p>12 driver license to gather information.</p> <p>13 Q. Which members of the DPS staff?</p> <p>14 A. Ryan O'Connor.</p> <p>15 Q. And who is he?</p> <p>16 A. Ryan O'Connor is one of our analysts in our</p> <p>17 business intelligence center.</p> <p>18 Q. Anybody else?</p> <p>19 A. I spoke with Kris Krueger.</p> <p>20 Q. Who is he?</p> <p>21 A. Kris Krueger is sort of our strategic analyst</p> <p>22 in business intelligence. Cynthia Collins, she is --</p> <p>23 colloquially we call her battle captain. She's</p> <p>24 somebody who handles -- who gathers the day-to-day</p> <p>25 information about EIC operations that are ongoing, so I</p>	<p style="text-align: right;">23</p> <p>1 Q. (BY MS. MARANZANO) I'm talking about --</p> <p>2 MR. KEISTER: Objection, attorney/client.</p> <p>3 Don't talk about anything or any conversations you've</p> <p>4 had with any attorneys in the case.</p> <p>5 THE WITNESS: Well, then, other -- other</p> <p>6 than me, probably not.</p> <p>7 Q. (BY MS. MARANZANO) And in relation --</p> <p>8 MR. KEISTER: Even if you're trying to</p> <p>9 compliment, don't do it.</p> <p>10 THE WITNESS: I'm not trying to do that.</p> <p>11 I'm just trying to answer the question.</p> <p>12 Q. (BY MS. MARANZANO) In relation to Topic 3,</p> <p>13 who at DPS, not including your counsel, has the most</p> <p>14 knowledge about that topic?</p> <p>15 A. That would be me.</p> <p>16 Q. And on Topic 4, who at DPS has the most</p> <p>17 knowledge about Topic 4?</p> <p>18 A. Well, with the exception of concealed handgun</p> <p>19 licenses, that would be me.</p> <p>20 Q. Okay. Did you rely on any documents in</p> <p>21 preparing for today's deposition that you did not</p> <p>22 produce to us today?</p> <p>23 A. Yes.</p> <p>24 Q. Which documents are those?</p> <p>25 A. So I -- you may have this already. I relied</p>
<p style="text-align: right;">22</p> <p>1 needed to speak to her. She also runs our daily EIC</p> <p>2 meetings.</p> <p>3 I spoke with Paul Watkins about some</p> <p>4 historical items. I spoke briefly with Joe Peters.</p> <p>5 I'm trying to remember if I spoke with anybody else.</p> <p>6 That's all that comes to mind. Oh, I</p> <p>7 know that I spoke with Steve Bell. He's the other</p> <p>8 senior manager who's responsible for DPS Regions 1 and</p> <p>9 2.</p> <p>10 Q. For Topic -- can you just look at this notice</p> <p>11 for a minute. For Topic No. 1, who would you say at</p> <p>12 DPS has the most knowledge about Topic No. 1? And if</p> <p>13 it varies by subpart, you can identify that.</p> <p>14 MR. KEISTER: Object to form, calls for</p> <p>15 speculation.</p> <p>16 But you can answer.</p> <p>17 THE WITNESS: Okay.</p> <p>18 I think if you're looking for a single</p> <p>19 person that knows the most, it probably would be</p> <p>20 Kathleen. She's reviewed all the documents.</p> <p>21 Q. (BY MS. MARANZANO) Are you talking about your</p> <p>22 counsel?</p> <p>23 A. Yes.</p> <p>24 Q. Okay.</p> <p>25 MR. KEISTER: Don't talk --</p>	<p style="text-align: right;">24</p> <p>1 on an excerpt from the Transportation Code,</p> <p>2 Chapter 521A, election identification certificate.</p> <p>3 Q. Anything else?</p> <p>4 A. Yes. I relied on an excerpt of the Texas</p> <p>5 Administrative Code. I call it the admin -- admin</p> <p>6 rules. Paragraph 15.181 deals with election</p> <p>7 certificates.</p> <p>8 Q. Anything else?</p> <p>9 A. Yes.</p> <p>10 MR. KEISTER: For the record, those are</p> <p>11 the documents that were -- that he's given.</p> <p>12 MS. MARANZANO: Yeah.</p> <p>13 Q. (BY MS. MARANZANO) I'm sorry. Just to be</p> <p>14 clear, I was just asking if there were other documents</p> <p>15 apart from what you've produced this morning.</p> <p>16 A. So you don't want me to enumerate them?</p> <p>17 Q. I -- no, you don't need to enumerate the ones</p> <p>18 that we have in our possession.</p> <p>19 A. Okay.</p> <p>20 Q. Thank you.</p> <p>21 Were there any others apart from those</p> <p>22 that you relied on?</p> <p>23 A. Not to my knowledge.</p> <p>24 Q. Okay. Are you familiar with an application</p> <p>25 for an election identification certificate?</p>

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<p style="text-align: right;">25</p> <p>1 A. I'm familiar with the DL-14C.</p> <p>2 Q. When did DPS start issuing EICs?</p> <p>3 A. Late June of last year.</p> <p>4 Q. And, for the record, what is an EIC?</p> <p>5 A. An election identification certificate?</p> <p>6 Q. Uh-huh.</p> <p>7 A. It's a card.</p> <p>8 Q. What's the -- what is the purpose of it?</p> <p>9 A. The purpose is to allow someone to vote.</p> <p>10 (Exhibit No. 64 marked.)</p> <p>11 THE REPORTER: Exhibit 64.</p> <p>12 Q. (BY MS. MARANZANO) I'm showing you what we're</p> <p>13 marking for the record as Exhibit 64. Do you recognize</p> <p>14 this document?</p> <p>15 A. Yes.</p> <p>16 Q. What is it?</p> <p>17 A. It's the December 2011 version of a DL-14C.</p> <p>18 Q. And has this document changed since</p> <p>19 December 2011?</p> <p>20 A. This document has been modified. It's been</p> <p>21 updated, yes.</p> <p>22 Q. Can you tell me what's been modified?</p> <p>23 A. I would need to see the current version in</p> <p>24 order to point it to you.</p> <p>25 Q. Do all offices accepting EICs use the DL-14</p>	<p style="text-align: right;">27</p> <p>1 A. Well, the DL-14C mirrors a DL-14, which is an</p> <p>2 application for a driver license or a personal</p> <p>3 identification certificate.</p> <p>4 Q. And how similar is the EIC application to the</p> <p>5 application for a driver's license or a personal</p> <p>6 identification certificate?</p> <p>7 A. You would have to show it to me and I can</p> <p>8 point out the differences.</p> <p>9 Q. As you sit here today, you don't -- you don't</p> <p>10 know what the differences are?</p> <p>11 A. No -- well, no.</p> <p>12 Q. Did DPS try to make the EIC application easy</p> <p>13 to understand?</p> <p>14 A. Yes.</p> <p>15 Q. What steps did it take to ensure that the</p> <p>16 application was easy to understand?</p> <p>17 A. Well, relying on the DL-14 that had gone</p> <p>18 through an extensive vetting process. And there are</p> <p>19 modifications and updates to that to ensure the public</p> <p>20 understands it. And -- and so the department also --</p> <p>21 when we were asked to -- to issue identification or</p> <p>22 election identification certificates used the DL-14 as</p> <p>23 a basis for it, and then we -- it was discussed to make</p> <p>24 sure that it was -- the instructions were clear.</p> <p>25 Q. Did DPS give any consideration to the fact</p>
<p style="text-align: right;">26</p> <p>1 form?</p> <p>2 A. The DL-14C?</p> <p>3 Q. Uh-huh. I'm sorry. The DL-14C.</p> <p>4 A. Yes.</p> <p>5 Q. Who developed this application?</p> <p>6 A. Our -- our -- well, the person who oversaw the</p> <p>7 development is Deputy Assistant Director</p> <p>8 JoeAnna Mastracchio. She works in driver license</p> <p>9 division.</p> <p>10 Q. Did anybody else give input?</p> <p>11 A. Yes.</p> <p>12 Q. Who?</p> <p>13 A. That would have been myself, Stephen Bell, and</p> <p>14 probably Paul Watkins, because we're the customer end</p> <p>15 of the business.</p> <p>16 Q. Was there any input from the Secretary of</p> <p>17 State's office?</p> <p>18 A. I'm unaware of any.</p> <p>19 Q. Was there any input from the governor's</p> <p>20 office?</p> <p>21 A. I'm unaware of any.</p> <p>22 Q. Did DPS rely on other applications in</p> <p>23 developing this application?</p> <p>24 A. Did they rely on other applications?</p> <p>25 Q. Uh-huh.</p>	<p style="text-align: right;">28</p> <p>1 that the population applying for an EIC might be</p> <p>2 different than the population applying for the election</p> <p>3 identification certificate?</p> <p>4 A. Not to my knowledge.</p> <p>5 Q. Isn't it true that an individual who's</p> <p>6 applying for an EIC by definition wouldn't have a</p> <p>7 driver's license?</p> <p>8 A. Not necessarily.</p> <p>9 Q. Wouldn't -- would not have a current driver's</p> <p>10 license?</p> <p>11 A. Not necessarily.</p> <p>12 Q. How would a person who has a current driver's</p> <p>13 license be eligible for an EIC?</p> <p>14 A. If the customer chose to, the customer could</p> <p>15 surrender their driver license.</p> <p>16 Q. Okay. Did DPS design the application -- the</p> <p>17 EIC application to seek only the information that's</p> <p>18 required to ensure EIC eligibility?</p> <p>19 A. The department designed the -- the DL-14C to</p> <p>20 gather the information that was established in the</p> <p>21 admin rules.</p> <p>22 Q. Did DPS have any other objectives when it</p> <p>23 developed this -- the application for an EIC?</p> <p>24 A. I don't understand the question.</p> <p>25 Q. Well, we've -- you -- you testified that DPS</p>

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8 (Pages 29 to 32)

<p style="text-align: right;">29</p> <p>1 tried to ensure the EIC application was easy to</p> <p>2 understand.</p> <p>3 A. The same way we do with all our documents,</p> <p>4 yes.</p> <p>5 Q. And you testified that the application was</p> <p>6 designed to solicit information that is required to</p> <p>7 ensure EIC eligibility?</p> <p>8 A. That's correct.</p> <p>9 Q. Were there any other goals that DPS had in</p> <p>10 developing this application?</p> <p>11 A. Not to my knowledge, no.</p> <p>12 Q. Did DPS consider the length of time it would</p> <p>13 take an applicant to complete this application?</p> <p>14 A. Not to my knowledge.</p> <p>15 Q. Can you look at the bottom of the box, the box</p> <p>16 at the top of the page, the last --</p> <p>17 A. The bottom of the box at the top of the page?</p> <p>18 Q. There's some information that's enclosed in a</p> <p>19 box.</p> <p>20 A. You're going to have to help me with that.</p> <p>21 Q. Okay. Well, I'm looking at --</p> <p>22 A. If you'll point to that I'll read the</p> <p>23 information.</p> <p>24 Q. I'm looking at the last line, and it says,</p> <p>25 "Father's last name and mother's maiden name." Do you</p>	<p style="text-align: right;">31</p> <p>1 may bring us their birth certificate. And that would</p> <p>2 have their mother's maiden or it could have their</p> <p>3 mother's maiden name on it.</p> <p>4 Q. So is it your testimony that you asked for</p> <p>5 this information to check it against underlying</p> <p>6 documents that might also have the mother's maiden</p> <p>7 name?</p> <p>8 A. Yes.</p> <p>9 Q. And is it the case that some applicants might</p> <p>10 present documents that don't have their mother's maiden</p> <p>11 name?</p> <p>12 A. That could be the case.</p> <p>13 Q. And they're still required to fill out on this</p> <p>14 application their mother's maiden name, correct?</p> <p>15 A. Yes.</p> <p>16 Q. For those applicants is there any purpose in</p> <p>17 gathering that information?</p> <p>18 A. Not to my knowledge.</p> <p>19 Q. Is there -- can you tell me the purpose of</p> <p>20 asking for the father's last name?</p> <p>21 A. It's the same purpose. It's a -- it helps us</p> <p>22 establish who the individual is.</p> <p>23 Q. Is the father's last name on any of the</p> <p>24 underlying documents that an applicant might present?</p> <p>25 A. It could be.</p>
<p style="text-align: right;">30</p> <p>1 see that?</p> <p>2 A. So the heading of the box says, "Applicant</p> <p>3 information and contact information" at the top of the</p> <p>4 box?</p> <p>5 Q. Yes.</p> <p>6 A. Okay. So it says, "Father's last name"?</p> <p>7 Q. Yes.</p> <p>8 A. Yes.</p> <p>9 Q. And "Mother's maiden name" on that same line.</p> <p>10 A. I see that.</p> <p>11 Q. Are those two pieces of information on your</p> <p>12 current application for an EIC?</p> <p>13 A. I believe so.</p> <p>14 Q. What's the purpose of asking applicants for</p> <p>15 their mother's maiden name?</p> <p>16 A. It's part of the information that we were --</p> <p>17 that we collect.</p> <p>18 Q. What does DPS do with that information?</p> <p>19 A. We use that to verify the applicant's</p> <p>20 identity.</p> <p>21 Q. How do you -- how do you use the mother's</p> <p>22 maiden name to verify the applicant's identity?</p> <p>23 A. That would depend on the applicant. I mean,</p> <p>24 some applicants, they -- they don't have a detailed set</p> <p>25 of identity documents, and they may bring us a -- they</p>	<p style="text-align: right;">32</p> <p>1 Q. Which documents?</p> <p>2 A. Well, again, that would be the birth</p> <p>3 certificate. And there may be -- there may be other</p> <p>4 documents. It -- it would depend on the individual and</p> <p>5 what they provide.</p> <p>6 Q. And when you -- when you do the verification</p> <p>7 of the application with the underlying documents, are</p> <p>8 you merely checking that the names match or are you</p> <p>9 doing some other sort of check on a DPS database?</p> <p>10 A. No, we don't -- we don't check anything on DPS</p> <p>11 database. We make sure the documents that are</p> <p>12 presented, they match. And our term, colloquialism, is</p> <p>13 to connect the dots for the person's identity.</p> <p>14 Q. So you're -- and this -- this box that we're</p> <p>15 looking at, is this filled out by the applicant?</p> <p>16 A. Yes.</p> <p>17 Q. So you're verifying that the applicant writes</p> <p>18 down the same name as is on their underlying</p> <p>19 documentation; is that correct?</p> <p>20 A. No, I don't understand your question entirely.</p> <p>21 It's -- the applicant presents the form. I mean, if</p> <p>22 the applicant isn't able to, somebody else may fill it</p> <p>23 out for them. It's -- sometimes it's not uncommon for</p> <p>24 the children to fill out the information and provide</p> <p>25 it.</p>

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<p style="text-align: right;">33</p> <p>1 Q. Okay. But what you're checking for is that</p> <p>2 the name matches the underlying documentation if the</p> <p>3 name is on the underlying documentation; is that</p> <p>4 correct?</p> <p>5 A. It's one of the things we check for.</p> <p>6 Q. Is there anything else you check for?</p> <p>7 A. In this block of information here?</p> <p>8 Q. Well, right now just with regard to that line,</p> <p>9 the father's last name and the mother's maiden name.</p> <p>10 A. I don't believe so.</p> <p>11 Q. Can you look at -- in that same box that we</p> <p>12 were just talking about. Do you see there's some lines</p> <p>13 that ask for a physical description, such as eye color,</p> <p>14 hair color, height, and weight?</p> <p>15 A. Yes.</p> <p>16 Q. What is the purpose of requesting information</p> <p>17 about the physical characteristics of applicants?</p> <p>18 A. 521.143 allows the department to gather a</p> <p>19 brief physical description of the applicant.</p> <p>20 Q. And what do you do with that information?</p> <p>21 A. We enter it into the database. That's it,</p> <p>22 into our database for election certificates.</p> <p>23 Q. Do applicants complete the physical</p> <p>24 description themselves?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">35</p> <p>1 they have; address, that type of information that's</p> <p>2 depicted on the box.</p> <p>3 MR. KEISTER: Can you speak up a little</p> <p>4 more?</p> <p>5 MR. BRAZIL: You keep getting more and</p> <p>6 more quiet.</p> <p>7 MR. KEISTER: Could you try and keep your</p> <p>8 voice up, please?</p> <p>9 THE WITNESS: I'll work on it.</p> <p>10 MR. BRAZIL: Thank you.</p> <p>11 THE WITNESS: The -- I have a problem</p> <p>12 modulating my voice. It's either too loud or not loud</p> <p>13 enough.</p> <p>14 MR. BRAZIL: Can't be too loud for my</p> <p>15 ears.</p> <p>16 THE WITNESS: I didn't want to be accused</p> <p>17 of yelling at anybody.</p> <p>18 MR. FREEMAN: She's tough.</p> <p>19 THE WITNESS: It's nothing personal.</p> <p>20 Q. (BY MS. MARANZANO) Is -- is the EIC database</p> <p>21 searchable by race?</p> <p>22 A. I don't know.</p> <p>23 Q. What is the purpose of asking an applicant for</p> <p>24 their race on the --</p> <p>25 A. The department --</p>
<p style="text-align: right;">34</p> <p>1 Q. Is any of that -- is any of the information</p> <p>2 describing the physical description of an applicant</p> <p>3 included on the face of an EIC?</p> <p>4 A. No.</p> <p>5 Q. Are DPS employees required to do some sort of</p> <p>6 visual check to ensure the physical description written</p> <p>7 matches the person standing in front of them?</p> <p>8 A. We don't have a scale in the office to make</p> <p>9 sure their weight is right.</p> <p>10 Q. Do they do any other sort of visual check?</p> <p>11 A. Just a brief check.</p> <p>12 Q. And did you say you enter this data into an</p> <p>13 EIC database?</p> <p>14 A. The EIC information is kept in our -- it's a</p> <p>15 sub-compartment of our driver license system database.</p> <p>16 It's a separate -- it's accessed through our DLS</p> <p>17 computers, but it's a separate database.</p> <p>18 Q. Is that database searchable?</p> <p>19 A. Yes.</p> <p>20 Q. Is it searchable by different features,</p> <p>21 different fields?</p> <p>22 A. I don't understand your question.</p> <p>23 Q. Presumably -- what information is captured in</p> <p>24 your database?</p> <p>25 A. I think the name; social security number, if</p>	<p style="text-align: right;">36</p> <p>1 Q. I'm sorry. I was just going to clarify -- on</p> <p>2 the EIC application?</p> <p>3 A. The department gathers -- just part of the</p> <p>4 demographic information that we gather. We gather a</p> <p>5 lot of information.</p> <p>6 Q. And what do you do with that information?</p> <p>7 A. Put it in the database.</p> <p>8 Q. Is the -- is the race of the applicant</p> <p>9 included on the face of the EIC?</p> <p>10 A. No.</p> <p>11 Q. And once this information is gathered in your</p> <p>12 database what's done with that information?</p> <p>13 A. To my knowledge -- well, the information is</p> <p>14 verified at -- at our headquarters by our license and</p> <p>15 records service as part of the issuance process. And</p> <p>16 what -- what the LRS, license and records service,</p> <p>17 people do is they review the DL-14C, they review</p> <p>18 whatever other documents that have been presented by</p> <p>19 the applicant and scanned. And then based on the</p> <p>20 documents scanned, they do a quality assurance check to</p> <p>21 make sure that the dates, the birthdays, match up and</p> <p>22 the Social Security numbers match up if it's been</p> <p>23 presented, and then they determine if it's a valid</p> <p>24 issuance. But -- but they don't they don't verify</p> <p>25 race. That's not part of the issuance process.</p>

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<p style="text-align: right;">37</p> <p>1 Q. So is there -- is there any purpose for asking 2 for it on the EIC application?</p> <p>3 A. Just that it's part of the information that we 4 collect. It's -- because you have to remember that -- 5 that the election identification certificate process 6 mirrors or roughly matches the process that we go 7 through in order to issue a driver license or an ID 8 card. And we did that in order to not have to -- in 9 order not to have to go back to retrain all 10 1,800 driver license employees for a special way to 11 issue an EIC. As much as we could we wanted to keep 12 the procedures to issue an EIC as close to the 13 procedures that we use to issue a DL, driver license, 14 or an ID card.</p> <p>15 Q. So keeping the -- keeping the application as 16 similar as you could to the application for a driver's 17 license was primarily for the convenience of the DPS 18 employees?</p> <p>19 A. I wouldn't say it was for the convenience of 20 the DPS employees. What it allowed us to do is it just 21 meant that we didn't have to go back and retrain them. 22 We have 1,800 employees spread across 254 counties in 23 the State of Texas. It's extremely difficult for us to 24 get them all together to train.</p> <p>25 Q. So was there any training done on EICs?</p>	<p style="text-align: right;">39</p> <p>1 allowed to ask for under the state -- under the admin 2 code.</p> <p>3 Q. So were you -- when developing this 4 application, DPS included all information that they 5 were permitted to ask for; is that correct?</p> <p>6 A. DPS included the information that we were 7 permitted to ask for relevant to elections. So, for 8 instance, somebody who's here on a Visa, they're not 9 eligible to vote. But we don't have for that because 10 they're not eligible to vote. They can't get an EIC.</p> <p>11 Q. Okay. So am I understanding you correctly 12 that you ask for all information that was relevant to 13 elections that you were permitted to ask for?</p> <p>14 A. As far as I know.</p> <p>15 Q. And there was not consideration given to 16 whether the information you were requesting was 17 necessary to determine eligibility for an EIC; is that 18 correct?</p> <p>19 A. The information that we ask for is -- is 20 collected in order to determine the eligibility. And 21 also it's for administrative purposes. We have to have 22 an address to mail the card to. We have to -- 23 sometimes that differs. The resident address and the 24 mailing address may be -- may be different.</p> <p>25 Q. But how does physical -- the physical</p>
<p style="text-align: right;">38</p> <p>1 A. Yes.</p> <p>2 Q. So you did retrain the DPS employees?</p> <p>3 A. It wasn't a retraining.</p> <p>4 Q. Well, would --</p> <p>5 A. We provided initial training when we were -- 6 the department was asked to -- to do EICs. And then 7 that -- it was before my time, but I believe it was in 8 2011. And there were -- there were training -- there 9 was training that took place either by WebEx or in 10 person depending on where the driver license customer 11 service representatives, or CSRs, were in relation to 12 the trainers.</p> <p>13 And then when we were asked to -- when we 14 were asked to issue EICs in June there were some 15 WebExes, training WebExes around that time to refresh 16 the tenured employees who had been working for a while. 17 But it's part of our new employee training. I don't 18 know if I answered your question or not.</p> <p>19 Q. I think you did.</p> <p>20 A. Okay.</p> <p>21 Q. Turning back to the application for a moment. 22 When developing this application did DPS consider that 23 asking for numerous pieces of personal information 24 might discourage individuals from applying for an EIC?</p> <p>25 A. DPS asked for the information that we're</p>	<p style="text-align: right;">40</p> <p>1 description of a person determine's one eligibility for 2 an EIC?</p> <p>3 A. It's just part of the information that we ask 4 for because we're allowed to gather a brief description 5 of applicants.</p> <p>6 Q. Okay. So it does not impact whether the 7 individual is eligible for an EIC, correct?</p> <p>8 A. No.</p> <p>9 Q. Did DPS consider whether asking questions that 10 were not necessary for the determination of eligibility 11 for an EIC might deter individuals from applying for an 12 EIC?</p> <p>13 A. Could you restate that, please?</p> <p>14 Q. Did DPS consider when it was developing the 15 EIC application that requesting information from 16 applicants that was not necessary for DPS' 17 determination of whether they were eligible for an EIC 18 would deter individuals from applying for an EIC?</p> <p>19 A. I -- I don't believe so.</p> <p>20 Q. You don't believe that DPS considered that?</p> <p>21 A. No.</p> <p>22 Q. Okay. Do you see at the -- towards the bottom 23 of this application there's a different box that says 24 "Verification" at the top?</p> <p>25 A. Yes.</p>

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<p style="text-align: right;">45</p> <p>1 Q. Is that at every mobile unit?</p> <p>2 A. Yes.</p> <p>3 Q. And at every county office?</p> <p>4 A. Yes.</p> <p>5 Q. Are they available in any other languages?</p> <p>6 A. No.</p> <p>7 Q. Do you know when the DL-14C began to be</p> <p>8 available in Spanish?</p> <p>9 A. I -- I know there was a discussion about it,</p> <p>10 and there may have been some e-mails between</p> <p>11 JoeAnna Mastracchio and myself. And I believe the</p> <p>12 timeframe was -- was in June or so, but I -- I can't</p> <p>13 remember the exact date.</p> <p>14 MS. MARANZANO: Can you mark this?</p> <p>15 (Exhibit No. 65 marked.)</p> <p>16 THE REPORTER: Exhibit 65.</p> <p>17 Q. (BY MS. MARANZANO) I'm showing you what we</p> <p>18 have marked for the record as Exhibit 65. Do you</p> <p>19 recognize this document?</p> <p>20 A. It looks like an e-mail.</p> <p>21 Q. And is this an accurate copy of an e-mail that</p> <p>22 you received?</p> <p>23 A. My name is on it, so, yes.</p> <p>24 Q. Does this refresh your recollection as to when</p> <p>25 the DL-14CS was made available?</p>	<p style="text-align: right;">47</p> <p>1 happened, if somebody had been unable to apply because</p> <p>2 the application was unavailable in Spanish, if it had</p> <p>3 happened anywhere in the state you would be made aware</p> <p>4 of that?</p> <p>5 A. Yes, I do.</p> <p>6 Q. And who is Steve?</p> <p>7 A. As I mentioned previously, Steve is</p> <p>8 Stephen Bell. He's the senior manager and he's</p> <p>9 responsible for DPS Regions 1A, 1B, 2A, and 2B. And</p> <p>10 that's roughly described as the Dallas/Fort Worth</p> <p>11 eastern part of Texas and Houston.</p> <p>12 Q. Do you and Stephen Bell split the state of</p> <p>13 Texas or are there other individuals who are involved</p> <p>14 in --</p> <p>15 A. That's it.</p> <p>16 Q. Okay. And his role is overseeing the driver's</p> <p>17 license offices as --</p> <p>18 A. He has the same duties and responsibilities</p> <p>19 that I do and he exercises them over his DPS regions.</p> <p>20 Q. Does he have EIC responsibilities as well?</p> <p>21 A. He does have EIC responsibility.</p> <p>22 Q. And what are his responsibilities with regard</p> <p>23 to EICs?</p> <p>24 A. He is our -- he's our logistician.</p> <p>25 Q. And what does he do in that capacity?</p>
<p style="text-align: right;">46</p> <p>1 A. Let's see. Yes.</p> <p>2 Q. When was the DL-14C made available in Spanish?</p> <p>3 A. So from the document here, it looks like it</p> <p>4 was sometime around 9-5-2013. That would be the 5th of</p> <p>5 September.</p> <p>6 Q. Why was the DL-14CS not made available in June</p> <p>7 when you began issuing EICs?</p> <p>8 A. I don't know.</p> <p>9 Q. Are you aware of any instances in which</p> <p>10 someone with limited English proficiency wanted to</p> <p>11 apply for an EIC but was unable to due to the</p> <p>12 unavailability of a Spanish translation of the EIC</p> <p>13 application?</p> <p>14 A. No.</p> <p>15 Q. Is that something you would be aware of if it</p> <p>16 had happened?</p> <p>17 A. If it occurred within my area, the DPS regions</p> <p>18 that I described to you, then I would get it through my</p> <p>19 chain of command or if it -- from my subordinates. Or</p> <p>20 if I got it from -- if it happened over in Steve's</p> <p>21 area, then he would -- he would tell me. So I would</p> <p>22 be -- eventually I would be. It might -- it might take</p> <p>23 a day or two, depending on -- on how fast the</p> <p>24 information was transmitted up.</p> <p>25 Q. So you feel confident that if this had</p>	<p style="text-align: right;">48</p> <p>1 A. In that capacity he was responsibility to</p> <p>2 purchase all of the tubs that we used, all of the</p> <p>3 screens to ensure that the computers were purchased</p> <p>4 with all the peripherals, to take all that -- all those</p> <p>5 different parts and configure them into sets that could</p> <p>6 be -- that we now know as a mobile unit.</p> <p>7 He's also responsible to track the</p> <p>8 equipment so that he knows where each mobile unit is in</p> <p>9 the state of Texas. He's responsible for the inventory</p> <p>10 control.</p> <p>11 Q. Okay. Do all driver's license offices around</p> <p>12 the state have at least one employee who is fluent in</p> <p>13 Spanish?</p> <p>14 A. I don't know.</p> <p>15 Q. Do you know how many driver's license offices</p> <p>16 do not have at least one employee who is fluent in</p> <p>17 Spanish?</p> <p>18 A. I've never asked for that information.</p> <p>19 Q. Does DPS view fluency in Spanish as a positive</p> <p>20 professional attribute when hiring its employees?</p> <p>21 A. It's asked for on the application for work. I</p> <p>22 don't know how it's regarded.</p> <p>23 Q. Has DPS made any effort to ensure that</p> <p>24 Spanish-speaking employees are available to assist EIC</p> <p>25 applications with limited English proficiency?</p>

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13 (Pages 49 to 52)

<p style="text-align: right;">49</p> <p>1 A. No.</p> <p>2 (Discussion off the record.)</p> <p>3 MR. KEISTER: You can answer.</p> <p>4 THE WITNESS: Oh, okay. They were --</p> <p>5 MR. KEISTER: They can chat. You just</p> <p>6 answer.</p> <p>7 THE WITNESS: I guess you're the</p> <p>8 important one.</p> <p>9 MR. KEISTER: Yes.</p> <p>10 THE WITNESS: So would you mind restating</p> <p>11 your question.</p> <p>12 Q. (BY MS. MARANZANO) Has DPS made any effort to</p> <p>13 ensure that Spanish-speaking employees are available to</p> <p>14 assist EIC applicants with limited English proficiency?</p> <p>15 A. Okay. So our offices are crewed by the people</p> <p>16 who live around them by and large and -- and the</p> <p>17 demographics of the office reflect the local</p> <p>18 demographics in most instances. So I don't know if</p> <p>19 we've made a special effort to transfer somebody from</p> <p>20 one office to another solely based on the language that</p> <p>21 they speak. But we hire people from the local area,</p> <p>22 and if you go to different parts of Texas they'll speak</p> <p>23 different languages, and -- and those are the people</p> <p>24 that we hire.</p> <p>25 Q. Does DPS have any policy about the placement</p>	<p style="text-align: right;">51</p> <p>1 Q. When -- when DPS is, I presume, mailing the</p> <p>2 EIC to the person.</p> <p>3 A. Okay. So that's two questions, and I'll</p> <p>4 answer it this way. When the customer leaves the</p> <p>5 office --</p> <p>6 Q. Uh-huh.</p> <p>7 A. -- they have what we call a transaction</p> <p>8 receipt, and that enables the customer to vote right</p> <p>9 away. And then the actual plastic card is -- is</p> <p>10 mailed -- for driver licenses and ID cards, I checked</p> <p>11 the mailing cycle yesterday. It was -- it was like</p> <p>12 ten days. But in practice, election certificates are</p> <p>13 mailed within five.</p> <p>14 Q. Consistently?</p> <p>15 A. It would depend on the number that we have and</p> <p>16 what else is going on in the production run of ID</p> <p>17 cards. So three -- three to five days is -- after the</p> <p>18 QA process, which is three to five days, the card is</p> <p>19 placed in the mail. So that could be six to ten days</p> <p>20 and the card would be in the mail.</p> <p>21 Q. Does DPS have a policy regarding an applicant</p> <p>22 who does not have a mailing address?</p> <p>23 A. Customers have to have a mailing address in</p> <p>24 order to receive the card. Periodically we deal with</p> <p>25 indigents and -- and the -- our -- our procedures are</p>
<p style="text-align: right;">50</p> <p>1 of employees who speak more than one language?</p> <p>2 A. Not in driver license, and I don't believe DPS</p> <p>3 does.</p> <p>4 Q. Okay. Are DPS employees available to assist</p> <p>5 EIC applicants who request assistance in completing the</p> <p>6 application?</p> <p>7 MR. KEISTER: Objection, vague.</p> <p>8 Go ahead.</p> <p>9 THE WITNESS: If a customer needs</p> <p>10 assistance, then -- then our customer service</p> <p>11 representatives help out the -- help the applicant,</p> <p>12 yes.</p> <p>13 Q. (BY MS. MARANZANO) Are all DPS employees</p> <p>14 trained to help an applicant who needs assistance?</p> <p>15 A. All DPS employees?</p> <p>16 Q. I'm sorry. All DPS employees issuing EICs.</p> <p>17 A. So the DPS employees in the driver license</p> <p>18 division?</p> <p>19 Q. Yes.</p> <p>20 A. Okay. That's part of their new employee</p> <p>21 training, yes.</p> <p>22 Q. From the time that an EIC application is</p> <p>23 submitted, how long does it take DPS to issue an EIC to</p> <p>24 that person?</p> <p>25 A. And when you say "issue," what do a mean?</p>	<p style="text-align: right;">52</p> <p>1 that the applicant lists the -- if they're staying at</p> <p>2 an indigent home or a shelter, to list that as their</p> <p>3 address and we send the card there.</p> <p>4 Q. And if a person doesn't have an address to</p> <p>5 list, would they not be able to receive an EIC?</p> <p>6 A. That's never come up. I don't know how to</p> <p>7 answer that question.</p> <p>8 Q. There's no policy -- DPS doesn't have a policy</p> <p>9 about if a person doesn't have a permanent address to</p> <p>10 list on their application?</p> <p>11 A. Well, just for the physics of mailing the card</p> <p>12 we have to have somewhere to send it.</p> <p>13 Q. And there's no other delivery method that DPS</p> <p>14 uses?</p> <p>15 A. No, we use the US mail.</p> <p>16 Q. Okay.</p> <p>17 (Exhibit No. 66 marked.)</p> <p>18 THE REPORTER: Exhibit 66.</p> <p>19 Q. (BY MS. MARANZANO) I'm showing you what we</p> <p>20 marked for the record as Exhibit 66. Can you take a</p> <p>21 look at this and let me know if you recognize it?</p> <p>22 A. Yes.</p> <p>23 Q. What is this?</p> <p>24 A. Well, the cover sheet an e-mail from Lynn</p> <p>25 Hale, who's one of our trainers, to myself. It was</p>

<p style="text-align: right;">53</p> <p>1 sent on the 26th of June 2013. And I understand this</p> <p>2 to be an attachment to that e-mail; is that right?</p> <p>3 Q. Do you recall receiving this document with</p> <p>4 this e-mail?</p> <p>5 A. No, but it's -- obviously I did.</p> <p>6 Q. Can --</p> <p>7 MR. KEISTER: Don't -- don't speculate,</p> <p>8 Mr. Rodriguez.</p> <p>9 THE WITNESS: I mean, yeah, I guess.</p> <p>10 Yes.</p> <p>11 MR. KEISTER: Don't guess. Either you</p> <p>12 did or you didn't.</p> <p>13 THE WITNESS: It's my name.</p> <p>14 Q. (BY MS. MARANZANO) Can you turn to Page --</p> <p>15 the page that has at the bottom "Texas" -- or</p> <p>16 "TEX-048020"? I think it's -- yeah, it's the one that</p> <p>17 you're on.</p> <p>18 A. Yes.</p> <p>19 Q. Is this a sample EIC on this page?</p> <p>20 A. Yes.</p> <p>21 Q. And is this the way EICs look currently when</p> <p>22 they're issued?</p> <p>23 A. Yes.</p> <p>24 Q. What is the purpose of including the date of</p> <p>25 birth on the EIC?</p>	<p style="text-align: right;">55</p> <p>1 no.</p> <p>2 Q. Is it your understanding that 521A requires</p> <p>3 that the EIC be similar to the driver's license?</p> <p>4 A. Just similar in form and appearance, but</p> <p>5 distinguishable from.</p> <p>6 Q. Okay. And -- and so the bar code was put on</p> <p>7 this because that's on driver's licenses; is that</p> <p>8 correct?</p> <p>9 A. We -- we use the same card stock for the --</p> <p>10 for the driver license, the ID card, and for the</p> <p>11 election certificate.</p> <p>12 Q. Okay. So it's on the card stock?</p> <p>13 A. Yeah. Yes.</p> <p>14 Q. Do you see on the face of the front of the</p> <p>15 card at the bottom it says, "Cannot be used as</p> <p>16 identification"?</p> <p>17 A. Yes.</p> <p>18 Q. But the EIC is intended to serve as</p> <p>19 identification for voting; is that correct?</p> <p>20 A. For voting purposes.</p> <p>21 Q. Is there any concern that that's confusing</p> <p>22 language?</p> <p>23 A. Confusing to who?</p> <p>24 Q. To an individual who receives an EIC.</p> <p>25 A. No. Our customer service representatives --</p>
<p style="text-align: right;">54</p> <p>1 A. It's just -- it's part of what we have to --</p> <p>2 we have to show their birthday for their voter</p> <p>3 eligibility.</p> <p>4 Q. Is the date of birth compared to the voter</p> <p>5 registration list?</p> <p>6 A. We don't compare it to any list.</p> <p>7 Q. So why do you need to show it for their voter</p> <p>8 eligibility?</p> <p>9 A. Well, we compare it if they present a -- we</p> <p>10 just present it on their card and --</p> <p>11 Q. Is there any reason for -- for the requirement</p> <p>12 that the card have the date of birth on it?</p> <p>13 A. I can't recall.</p> <p>14 Q. Okay. What's the purpose of including the bar</p> <p>15 code that's shown on the back of the election</p> <p>16 identification certificate?</p> <p>17 A. The card is made from standard card stock and</p> <p>18 part of the -- part of 521 says that it must be similar</p> <p>19 in form and appearance to a driver license, but</p> <p>20 different. And so we just used the same card stock</p> <p>21 when we printed this scantron or the bar code on the</p> <p>22 back. That's -- that's on our card stock and we just</p> <p>23 include it on the -- we include it on the EIC.</p> <p>24 Q. So this bar code is not used for scanning?</p> <p>25 A. No, I don't -- I don't -- not to my knowledge,</p>	<p style="text-align: right;">56</p> <p>1 as part of their dialogue with the customer when the</p> <p>2 customer comes to the office to seek service, they</p> <p>3 explain that the EIC is used for -- for voting. And it</p> <p>4 can be used for voting, but it's not meant to replace</p> <p>5 the -- the Texas identification card.</p> <p>6 Q. If an EIC applicant expressed that they wanted</p> <p>7 to use an EIC as identification for another purpose</p> <p>8 other than voting, would they be permitted to receive</p> <p>9 an EIC?</p> <p>10 A. Well, they would be advised that the card was</p> <p>11 not intended for that, but that would not stop them</p> <p>12 from getting an EIC.</p> <p>13 Q. If an individual went to a driver's license</p> <p>14 office and said, "I would like to apply for an EIC. I</p> <p>15 would like to use this at my bank or in my office," is</p> <p>16 it your testimony that that person would be -- that</p> <p>17 the -- the EIC would still be issued to that person?</p> <p>18 A. The -- what the customer service</p> <p>19 representatives do is they say, "Well, the EIC can only</p> <p>20 be used for voting purposes. It's not intended to be</p> <p>21 an ID card," and they would -- they would explain the</p> <p>22 uses -- or the purpose of the Texas ID card.</p> <p>23 Q. Are you aware of instances where an EIC</p> <p>24 applicant wanted to obtain an EIC for something other</p> <p>25 than voting and was turned away?</p>

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15 (Pages 57 to 60)

<p style="text-align: right;">57</p> <p>1 A. And was turned away? Not to my knowledge, no.</p> <p>2 Q. You're not aware of any instances?</p> <p>3 A. No.</p> <p>4 Q. What are the circumstances under which an EIC</p> <p>5 can be canceled?</p> <p>6 A. Canceled?</p> <p>7 Q. Uh-huh.</p> <p>8 A. Well, the -- the admin rules allow us to</p> <p>9 cancel it, permits the department to cancel it. We</p> <p>10 haven't canceled any EIC cards. We haven't canceled</p> <p>11 any.</p> <p>12 Q. Okay. So --</p> <p>13 A. If -- if we found that the -- the individual</p> <p>14 was fraudulent and they presented fraudulent documents,</p> <p>15 I suppose that would be a reason for us to cancel it.</p> <p>16 Q. Is that the only basis under which DPS would</p> <p>17 cancel an EIC?</p> <p>18 A. There may be others; but to be honest with</p> <p>19 you, it's never come up. We've never canceled an EIC.</p> <p>20 Q. As you sit here today, are you aware of any</p> <p>21 other reasons that DPS would cancel an EIC, other than</p> <p>22 fraudulent documents?</p> <p>23 A. No.</p> <p>24 Q. What are the circumstances under which you</p> <p>25 would cancel an ID card, a personal ID card?</p>	<p style="text-align: right;">59</p> <p>1 designated on and I'm instructing him not to answer.</p> <p>2 We do have somebody else who's designated for those</p> <p>3 issues. I'm not going to change my mind.</p> <p>4 MS. MARANZANO: Well, you know, I can</p> <p>5 cite you cases because it's absolutely improper to</p> <p>6 instruct him not to answer.</p> <p>7 MR. KEISTER: I'm not -- I'm not going to</p> <p>8 change my mind. I'm instructing him not to answer. We</p> <p>9 have other people designated for that issue.</p> <p>10 MR. FREEMAN: Mr. Keister, once a witness</p> <p>11 has been designated --</p> <p>12 MR. KEISTER: I'm not --</p> <p>13 MR. FREEMAN: Please let me finish</p> <p>14 talking.</p> <p>15 MR. KEISTER: I'm not changing my mind.</p> <p>16 MR. FREEMAN: Sir, let me finish talking.</p> <p>17 MR. KEISTER: Sir, no. There's no reason</p> <p>18 to have this discussion. I've instructed the witness</p> <p>19 not to answer anything beyond what he's designated here</p> <p>20 for.</p> <p>21 MR. FREEMAN: If he has personal</p> <p>22 knowledge, it is entirely proper for him to answer</p> <p>23 Ms. Maranzano's questions. I can cite you a half dozen</p> <p>24 cases. If you want us to call the judge --</p> <p>25 MR. KEISTER: If you want to call the</p>
<p style="text-align: right;">58</p> <p>1 MR. KEISTER: Counsel, this is beyond the</p> <p>2 scope of the issues for which he's designated.</p> <p>3 MS. MARANZANO: Well, this is directly</p> <p>4 related to the standards and procedures under which an</p> <p>5 EIC may be cancelled.</p> <p>6 MR. KEISTER: No. Did you say EIC? I</p> <p>7 thought you said a Texas ID card.</p> <p>8 MS. MARANZANO: I did say Texas ID card,</p> <p>9 but I'm looking for --</p> <p>10 MR. KEISTER: That's beyond the scope of</p> <p>11 what he's here to testify about, and I'm --</p> <p>12 MS. MARANZANO: He can still answer the</p> <p>13 question.</p> <p>14 MR. KEISTER: I instruct him not answer.</p> <p>15 It's beyond the scope. I think we have somebody</p> <p>16 designated specifically for those issues. I'm</p> <p>17 instructing him not to answer.</p> <p>18 MR. FREEMAN: Mr. Keister --</p> <p>19 MS. MARANZANO: Mr. Keister, it's</p> <p>20 improper to instruct the witness not to answer based on</p> <p>21 things that are beyond --</p> <p>22 MR. KEISTER: He's not going to give</p> <p>23 answers about issues he's not designated on. He's here</p> <p>24 to testify on behalf of DPS with these specific issues</p> <p>25 and he's not going to give an opinion about issues he's</p>	<p style="text-align: right;">60</p> <p>1 judge, call the judge.</p> <p>2 MR. FREEMAN: 30(b)(6) deposition.</p> <p>3 MR. KEISTER: If you want to call, it's</p> <p>4 up to you. But I've instructed him not to answer.</p> <p>5 That is my --</p> <p>6 MR. FREEMAN: You simply don't care about</p> <p>7 the law in this area. Is that your response?</p> <p>8 MR. KEISTER: Do you have any other</p> <p>9 questions?</p> <p>10 MS. MARANZANO: I think for the moment</p> <p>11 we'll continue, and we'll consider what to do.</p> <p>12 MR. KEISTER: Okay.</p> <p>13 Q. (BY MS. MARANZANO) Are you following your</p> <p>14 counsel's instruction not to answer that question?</p> <p>15 A. Yes.</p> <p>16 Q. Can you tell what the process is for</p> <p>17 cancelling an EIC?</p> <p>18 A. We've never gone through it. I couldn't</p> <p>19 speculate.</p> <p>20 Q. Does DPS have any policies for the process for</p> <p>21 cancellation of an EIC?</p> <p>22 A. The admin rules merely say that it can be</p> <p>23 done.</p> <p>24 Q. And has DPS developed any policy by which they</p> <p>25 would they would follow to cancel an EIC?</p>

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16 (Pages 61 to 64)

<p style="text-align: right;">61</p> <p>1 A. No.</p> <p>2 Q. How is an EIC holder notified of cancellation,</p> <p>3 if it occurs?</p> <p>4 A. I don't know because we haven't developed any</p> <p>5 policies for it -- or procedures. Excuse me.</p> <p>6 Q. Okay. To obtain an EIC does an applicant have</p> <p>7 to present documented proof of identity and proof of</p> <p>8 citizenship?</p> <p>9 A. Yes.</p> <p>10 Q. And does your website state that applicants</p> <p>11 need to prove identity and citizenship?</p> <p>12 A. Our website provides the information to the</p> <p>13 document they need to bring with them, yes.</p> <p>14 Q. Do you train DPS employees issuing EICs that</p> <p>15 applicants need to prove identity and citizenship?</p> <p>16 A. That's part of their training as new</p> <p>17 employees, yes.</p> <p>18 Q. You train county employees who are issuing</p> <p>19 EICs that applicants need to prove identity and</p> <p>20 citizenship?</p> <p>21 A. Yes.</p> <p>22 Q. Can a non-citizen obtain a Texas driver's</p> <p>23 license?</p> <p>24 A. Yes.</p> <p>25 Q. Can a non-citizen obtain a Texas personal</p>	<p style="text-align: right;">63</p> <p>1 Did I read that correctly?</p> <p>2 A. It has colon, semicolon, or; but yes.</p> <p>3 Q. Right. If a person -- if an EIC applicant</p> <p>4 says that she is a registered voter, does DPS do a</p> <p>5 check to confirm that?</p> <p>6 A. There's no way for us to check. No.</p> <p>7 Q. Does the applicant need to present a voter</p> <p>8 registration card?</p> <p>9 A. Yes. If they don't have a voter registration</p> <p>10 card, they need to be eligible to vote and then they</p> <p>11 have to -- they can apply for a voter registration card</p> <p>12 in the office as part of their application for an EIC.</p> <p>13 Q. What about if an applicant states that she is</p> <p>14 already a registered voter but she doesn't have the</p> <p>15 voter registration card with her?</p> <p>16 A. She can apply in the office.</p> <p>17 Q. So she doesn't need to present her voter</p> <p>18 registration card when she applies?</p> <p>19 A. It says here, "and submit an application for</p> <p>20 voter registration."</p> <p>21 Q. Would a voter who is already registered to</p> <p>22 vote but doesn't have a voter registration card with</p> <p>23 her have to reapply to register to vote?</p> <p>24 A. Yes. They would submit the paperwork.</p> <p>25 Q. Okay.</p>
<p style="text-align: right;">62</p> <p>1 identification card?</p> <p>2 A. Yes.</p> <p>3 Q. Does a voter registration applicant need to</p> <p>4 prove citizenship to become a registered voter?</p> <p>5 A. Registration is done at the Secretary of</p> <p>6 State. I don't know how they handle it.</p> <p>7 Q. Okay.</p> <p>8 MS. MARANZANO: This was previously</p> <p>9 marked.</p> <p>10 Q. (BY MS. MARANZANO) I'm showing you what has</p> <p>11 been previously marked as Exhibit No. 38.</p> <p>12 Do you recognize this document?</p> <p>13 A. Yes.</p> <p>14 Q. What is this document?</p> <p>15 A. This is an excerpt from our administrative</p> <p>16 code. I refer to them as admin rules, yes.</p> <p>17 Q. How was this regulation developed?</p> <p>18 A. This regulation is derived from the statute,</p> <p>19 521.</p> <p>20 Q. Can you take a look at 15.181, subpart C,</p> <p>21 subpart 1?</p> <p>22 A. Okay.</p> <p>23 Q. And do you see that says, "An applicant must</p> <p>24 be a registered voter in the state and present a voter</p> <p>25 registration card issued to the individual"?</p>	<p style="text-align: right;">64</p> <p>1 A. Actually, it's just a check on the box.</p> <p>2 Q. Check on which box?</p> <p>3 A. Are you eligible -- I'm sorry. Exhibit 64,</p> <p>4 the DL-14C dated December 2011. "Are you eligible and</p> <p>5 registering to vote today?"</p> <p>6 Q. So the applicant would check that box yes or</p> <p>7 no?</p> <p>8 A. Yes.</p> <p>9 Q. But if the -- if an applicant is already</p> <p>10 registered to vote but doesn't have her card with her</p> <p>11 or forgot her card, is it your testimony that that</p> <p>12 applicant would re-register to vote when they applied</p> <p>13 for an EIC?</p> <p>14 A. They would check the box. We would send that</p> <p>15 to the Secretary of State; and they would do whatever</p> <p>16 they do with it, enter it in their database or update</p> <p>17 their database, however they do that. I'm not familiar</p> <p>18 with that.</p> <p>19 Q. Okay. So I guess what I'm trying to figure</p> <p>20 out is: If an applicant does haven't a voter</p> <p>21 registration card on her --</p> <p>22 A. Right.</p> <p>23 Q. -- is she prohibited from applying for an EIC?</p> <p>24 A. No.</p> <p>25 Q. Okay. Can you take a look at 15.182, which is</p>

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17 (Pages 65 to 68)

<p style="text-align: right;">65</p> <p>1 on that same page.</p> <p>2 A. Uh-huh.</p> <p>3 Q. -- on Exhibit 38.</p> <p>4 How was this list of underlying</p> <p>5 documentation developed?</p> <p>6 A. So this -- this roughly corresponds with the</p> <p>7 other information that we collect as a matter of course</p> <p>8 under 6 check 521.143, but it's specific to -- it's</p> <p>9 specific to voter -- voting, as I mentioned before.</p> <p>10 Q. And when you talk about the information you</p> <p>11 collect, you're referring to the underlying</p> <p>12 documentation listed in 15.182?</p> <p>13 A. Yes. You talking about the one piece of</p> <p>14 primary identification?</p> <p>15 Q. Right. And then it goes on to the next page.</p> <p>16 A. Yes. And then it goes into primary</p> <p>17 identification; and it goes all the way down to B-B on</p> <p>18 the next page, yes.</p> <p>19 Q. Yes.</p> <p>20 Did DPS consider that the population</p> <p>21 applying for an EIC might have different access to the</p> <p>22 documents than the population of -- than the population</p> <p>23 applying for a Texas driver's license?</p> <p>24 A. Different access to the documents?</p> <p>25 Q. Uh-huh.</p>	<p style="text-align: right;">67</p> <p>1 not in evidence as to whether or not people applying</p> <p>2 for EICs would not have access to these documents.</p> <p>3 To the extent you can answer,</p> <p>4 THE WITNESS: Yeah. I don't know. I</p> <p>5 don't know what an individual would have to go through</p> <p>6 to get the documents.</p> <p>7 Q. (BY MS. MARANZANO) Do you know whether DPS</p> <p>8 considered -- considered that when they developed the</p> <p>9 regulation?</p> <p>10 MR. KEISTER: Same objection as</p> <p>11 previously.</p> <p>12 Q. (BY MS. MARANZANO) To be clear, did DPS</p> <p>13 consider what individuals would have to go through to</p> <p>14 get the documents?</p> <p>15 MR. KEISTER: Same objections.</p> <p>16 THE WITNESS: We don't know what an</p> <p>17 individual would have to do in order to get the</p> <p>18 documents that we're required to collect.</p> <p>19 Q. (BY MS. MARANZANO) Okay. Can you look at --</p> <p>20 under -- under 15.182, Subsection 2, where it talks</p> <p>21 about primary identification. The only form of primary</p> <p>22 identification that is independently sufficient to</p> <p>23 establish EIC eligibility is a driver's license or ID</p> <p>24 card that has been expired for more than 60 days but</p> <p>25 less than two years, correct?</p>
<p style="text-align: right;">66</p> <p>1 A. I --</p> <p>2 Q. Did DPS consider that the population of</p> <p>3 individuals who are applying for an EIC might not be</p> <p>4 able to obtain the underlying documentation on this</p> <p>5 list as easily as the population applying for a Texas</p> <p>6 driver's license?</p> <p>7 MR. KEISTER: Object, form. That's vague</p> <p>8 and ambiguous. And the population has not been defined</p> <p>9 or established, so there's no foundation for that.</p> <p>10 To the extent you can answer, you're</p> <p>11 about to answer.</p> <p>12 THE WITNESS: Thank you. These are the</p> <p>13 documents that we collect and -- in order to identify</p> <p>14 the applicant. It helps us identify the applicant.</p> <p>15 Q. (BY MS. MARANZANO) Did -- when -- when DPS</p> <p>16 developed this list of required underlying</p> <p>17 documentation, did it consider the ease with which a</p> <p>18 person might be able to obtain these documents?</p> <p>19 A. Not to my knowledge, no.</p> <p>20 Q. Did DPS consider whether individuals applying</p> <p>21 for an EIC might be less likely to have access to their</p> <p>22 birth certificates than individuals applying for a</p> <p>23 driver's license?</p> <p>24 MR. KEISTER: Objection, form. That's</p> <p>25 vague. That calls for speculation and it assumes facts</p>	<p style="text-align: right;">68</p> <p>1 A. Where does it say that?</p> <p>2 MR. KEISTER: Counsel, I think we're</p> <p>3 missing something. It looks Page 2 is missing.</p> <p>4 THE WITNESS: Oh, yeah. It goes from</p> <p>5 Page 1 to Page 3.</p> <p>6 MS. MARANZANO: I think that we referred</p> <p>7 to the exhibit as it was introduced in -- it's in this</p> <p>8 binder.</p> <p>9 THE REPORTER: Off the record.</p> <p>10 (Discussion off the record.)</p> <p>11 THE REPORTER: Back on the record.</p> <p>12 Q. (BY MS. MARANZANO) So we were looking at</p> <p>13 15.182, Subsection 2 where it talks about a primary</p> <p>14 identification.</p> <p>15 A. Yes.</p> <p>16 Q. And is the only form of primary identification</p> <p>17 that's listed here, a Texas driver's license or</p> <p>18 personal identification card issued to the person that</p> <p>19 has expired for 60 days and is within two years of</p> <p>20 expiration date -- that's the only form of primary</p> <p>21 identification, correct?</p> <p>22 A. Or an ID card. A driver license or an ID card</p> <p>23 are accepted as primary forms of identification within</p> <p>24 the -- within the parameters that you've laid out here,</p> <p>25 the 60 days to two years of expiration.</p>

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18 (Pages 69 to 72)

<p style="text-align: right;">69</p> <p>1 Q. Okay. And does a driver's license that has</p> <p>2 been expired for more than 60 days but less than two</p> <p>3 years establish citizenship?</p> <p>4 A. No.</p> <p>5 Q. Is it nonetheless sufficient to obtain an EIC?</p> <p>6 A. It's sufficient to prove that the individual</p> <p>7 is who they say they are.</p> <p>8 Q. So would an individual who presented a</p> <p>9 driver's license that had been expired somewhere</p> <p>10 between 60 days and two years also have to show</p> <p>11 documentary proof of citizenship?</p> <p>12 A. They may. What would happen is that the --</p> <p>13 the applicant would come to the office and they would</p> <p>14 present the card and as part of the -- as part of the</p> <p>15 issuance process for EICs, then the customer service</p> <p>16 representative would look at the driver license</p> <p>17 information and citizenship information is contained</p> <p>18 under that tab.</p> <p>19 Q. Okay. So that the -- the DPS employee would</p> <p>20 look at a database?</p> <p>21 A. Well, now it's our driver license system.</p> <p>22 Q. Okay.</p> <p>23 A. So when you -- when you come to an office</p> <p>24 that -- you know, you'll have somebody and they have</p> <p>25 their computer; and all of our driver license</p>	<p style="text-align: right;">71</p> <p>1 an EIC?</p> <p>2 A. I need to see -- can you restate that to make</p> <p>3 it a little bit more clear for me?</p> <p>4 Q. If an individual had a -- had ID that was part</p> <p>5 of this primary identification --</p> <p>6 A. Uh-huh.</p> <p>7 Q. -- either a Texas driver's license or an ID</p> <p>8 card that had expired somewhere between 60 days and two</p> <p>9 years but did not have any additional documentary proof</p> <p>10 of citizenship, is that person able to obtain an EIC?</p> <p>11 A. The answer to that question is it would</p> <p>12 depend, and it would depend on what the entry is in the</p> <p>13 driver license system.</p> <p>14 Q. And what -- what would --</p> <p>15 A. There a box that just says --</p> <p>16 MR. KEISTER: Let her complete ask her</p> <p>17 question.</p> <p>18 THE WITNESS: Sorry.</p> <p>19 Q. (BY MS. MARANZANO) What would it depend on?</p> <p>20 A. It would depend on if the box that said, US</p> <p>21 citizen, yes/no.</p> <p>22 Q. Okay. So if the person was a citizen and DPS</p> <p>23 could confirm that, they would be able to apply for an</p> <p>24 EIC?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">70</p> <p>1 information is contained in our system. So there's the</p> <p>2 driver licenses, the ID cards, then there's a separate</p> <p>3 tab for election certificates.</p> <p>4 Q. Okay. So the driver's license database</p> <p>5 contains information about citizenship?</p> <p>6 A. Yes.</p> <p>7 Q. And is that for all individuals who have</p> <p>8 received a driver's license?</p> <p>9 A. Yes. Or an ID card, yes.</p> <p>10 Q. That was my next question. So an ID card</p> <p>11 holder would have that same information in the</p> <p>12 database?</p> <p>13 A. Yes.</p> <p>14 Q. So if an individual had an ID card that was</p> <p>15 expired for between 60 days --</p> <p>16 A. Same parameters you've laid out in here.</p> <p>17 Q. Two years?</p> <p>18 Would that individual -- would the DPS</p> <p>19 employee check the database to determine if that</p> <p>20 individual is a US citizen?</p> <p>21 A. Yes.</p> <p>22 Q. And so if an individual had a driver's license</p> <p>23 or ID card that had been expired between 60 days and</p> <p>24 two years and did not have additional documentary proof</p> <p>25 of citizenship, would that individual be able to obtain</p>	<p style="text-align: right;">72</p> <p>1 Q. If the person was a citizen and didn't have --</p> <p>2 did not have documentary proof of citizenship, would</p> <p>3 they be able to apply for an EIC?</p> <p>4 A. I would need to see what other documents they</p> <p>5 presented.</p> <p>6 Q. Okay.</p> <p>7 MS. MARANZANO: Do you do you want to</p> <p>8 take a few minutes for a break?</p> <p>9 MR. KEISTER: I do.</p> <p>10 MS. MARANZANO: Okay. Let's go off the</p> <p>11 record.</p> <p>12 THE REPORTER: Off the record.</p> <p>13 (Recess from 10:32 a.m. to 10:46 a.m.)</p> <p>14 THE REPORTER: Back on the record.</p> <p>15 THE WITNESS: So I had previously</p> <p>16 referred to the rule inaccurately. When I said that we</p> <p>17 were allowed to collect identification information</p> <p>18 under 521.143, that's not an accurate statement. It's</p> <p>19 521.142.</p> <p>20 Q. (BY MS. MARANZANO) Thank you for the</p> <p>21 clarification.</p> <p>22 A. I apologize for that.</p> <p>23 MS. MARANZANO: And before I get started</p> <p>24 asking questions, I just want to read for the record</p> <p>25 the citations that establish the proposition that we</p>

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19 (Pages 73 to 76)

<p style="text-align: right;">73</p> <p>1 talked about, that it's improper to instruct a witness 2 not to answer questions beyond the scope of what he's 3 been designated for. McMahan versus Presidential 4 Airways, Inc., 2006, US District Lexis 4909, middle 5 District, Florida 2006. Push Lackey versus Reyes 6 (phonetic), 2014 US District Lexis 14278, District, New 7 Mexico, 2014. Badger versus Walmart Stores, Inc., 2013 8 US District Lexis, 91216, District, Nevada, 2014.</p> <p>9 And I want to note for the record that 10 these all cite Moore's Federal Practice, and they cite 11 other decisions in them. And so we would appreciate if 12 you'd take a look and consider your position.</p> <p>13 MR. KEISTER: Do you have copies of those 14 cases?</p> <p>15 MS. MARANZANO: We have copies of 16 excerpts, which we can provide to you.</p> <p>17 MR. KEISTER: Thank you.</p> <p>18 MS. MARANZANO: Okay.</p> <p>19 Q. (BY MS. MARANZANO) And before the break, we 20 were talking about what has been -- what has been 21 entered into the record as Exhibit No. 38. 22 Can you look at 15182? 23 A. I'm sorry. 15 -- 24 Q. 182. 25 A. Yeah.</p>	<p style="text-align: right;">75</p> <p>1 Q. (BY MS. MARANZANO) And is it -- 2 A. Well, I stand corrected. To my knowledge, it 3 -- two, three, four -- I believe it would be -- I 4 believe it would be 4. 5 Q. Four? 6 A. Yes. 7 Q. And is it the case that a person, an EIC 8 applicant can present one piece of secondary 9 identification and two pieces of supporting 10 identification under the regulation under 15182? 11 MR. KEISTER: Objection, vague. For what 12 purpose? Has it has been stated? 13 Q. (BY MS. MARANZANO) Can you look at 15182, 14 Subsection 1, part C? 15 A. Yes. Yes. 16 Q. So a requirement to obtain an EIC is that an 17 applicant must present one of these combinations of 18 underlying documentation; is that correct? 19 A. Yes. 20 Q. And is one of the combinations one piece of 21 secondary identification plus two pieces of supporting 22 identification? 23 A. Yes. 24 Q. If an individual presents the secondary 25 identification that we just talked about, Subsection C,</p>
<p style="text-align: right;">74</p> <p>1 Q. And we were talking about documents that 2 established citizenship before the break. 3 Can you look at the secondary 4 identification items, which is subpart 3 under 15182? 5 A. I see that. 6 Q. Do you know if an original or certified copy 7 of a court order with name and date of birth indicating 8 an official change of name or gender, which is listed 9 as subsection 3 -- I'm sorry. -- section C under 3. 10 Does that establish citizenship? 11 A. No. 12 Q. If an individual was to -- well, strike that. 13 Can you look at the list of supporting 14 identification? 15 A. Paragraph 4? 16 Q. Yes. 17 A. Yes. 18 Q. How many of these documents that are listed 19 here establish citizenship? 20 A. Let's see. 21 MR. KEISTER: Objection, form. That 22 calls for a legal opinion and legal conclusion. 23 You can answer. 24 THE WITNESS: To my knowledge, I only 25 believe it would be 2.</p>	<p style="text-align: right;">76</p> <p>1 the change of name or gender, and supporting 2 identification that does not establish citizenship, 3 would that person have to show additional proof of 4 citizenship? 5 A. They may be required to, yes. 6 Q. And is that prescribed by the -- by the 7 regulation, that that individual would have to show 8 documentary proof of citizenship? 9 A. The applicant has to -- has to be a U.S. 10 citizen, and they have to be able to show that. 11 Q. And -- and what is that requirement based on? 12 A. What's the requirement based on to -- to show 13 that you're a US citizen? 14 Q. Uh-huh. 15 A. I believe it's the voting code. 16 Q. What -- do you know what section of the voting 17 code? 18 A. I'm not familiar with that, no. 19 Q. And are you -- just to be clear, are you 20 saying that the voting code requires that individuals 21 who are voting are citizens? 22 A. Okay. I don't know what the voting code is. 23 I'm not a voting code guy. 24 Q. Right. Right. I was just trying to 25 understand your answer.</p>

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20 (Pages 77 to 80)

<p style="text-align: right;">77</p> <p>1 A. Yeah. I guess I was trying to understand your 2 question. If you would restate it, I'll try and answer 3 it better.</p> <p>4 Q. Okay. Perfect.</p> <p>5 I'm trying to determine what gives DPS 6 the authority to require individuals to show 7 documentary proof of citizenship in addition to the 8 documents that are listed under 15182.</p> <p>9 A. Okay. These are -- these are supporting forms 10 of identification and -- how can I explain this? This 11 will be longer than a yes or no.</p> <p>12 The reason they're supporting forms of 13 identification is that -- is that the farther that the 14 applicant gets from the driver license or the ID card, 15 which are primary forms of identification, and the -- 16 the customer has already shown a lot of documents to 17 prove who they are and their citizenship and all that's 18 captured -- and those are primary documents, right? So 19 the farther we get from those primary documents, then 20 you have to make up for that in -- in quantity of 21 documents.</p> <p>22 So there may be other documents that are 23 required in order to -- to have the applicant show who 24 they are in order for us to be able to -- to verify 25 their identify or to issue the card. The same for --</p>	<p style="text-align: right;">79</p> <p>1 customer presents us with -- the customer presents us 2 with their voter registration card, which is issued by 3 the Secretary of State; or if they don't have it, they 4 apply -- they can reapply. But there's -- and if they 5 have a driver license or an ID card, we can check in 6 the driver license system to see if they have proved 7 it.</p> <p>8 I -- it would depend on what they give 9 us. It would -- we have a network -- you know, we have 10 customer service representatives. They make -- based 11 on the training that we've given them, the parameters 12 that we've established, they make -- they have 13 discretion to exercise latitude. And we tell them to 14 issue -- you know, err on the side of issuance. I 15 haven't been involved in any of these. I mean, 16 ultimately, if there were problems, I would see it 17 based on my responsibilities as a senior manager; and I 18 would help resolve those. I haven't been involved in 19 anything like you've described. I'm sorry.</p> <p>20 Q. Is the discretion that is given to the DPS 21 employees who are issuing EICs, is that discretion 22 limited by the parameters of the regulation?</p> <p>23 A. No. It's -- I don't believe so. The -- 24 the -- it's a permissive. I'm sorry. We -- the 25 regulation establishes a certain set of guidelines,</p>
<p style="text-align: right;">78</p> <p>1 well, we're doing the citizenship, but the same for a 2 driver license or anything else. So we recognize that 3 there are -- there are customers who may not have some 4 forms of ID and then that's why we ask for supporting 5 identification and then those supporting 6 identification, it will depend on the customer and it 7 will -- it will depend on what they have.</p> <p>8 I mean, it's really -- that part is done 9 on a case-by-case basis depending on what the customer 10 presents. I mean, it's an imprecise answer; but --</p> <p>11 Q. Is this regulation that we're looking at what 12 establishes the criterion an applicant for an EIC would 13 have to present to obtain an EIC?</p> <p>14 A. It lists -- it provides a list of documents. 15 But I mean, if you -- if you look at B-B, it says, 16 "Document may be added depending on how things change 17 in the future."</p> <p>18 Q. Does this -- this regulation that we're 19 looking at --</p> <p>20 A. These rules, the admin rules?</p> <p>21 Q. Right. The Exhibit 38.</p> <p>22 A. Okay. Yes.</p> <p>23 Q. Does any part of this regulation require DPS 24 to confirm U.S. citizenship?</p> <p>25 A. Well, we don't confirm US citizenship. The</p>	<p style="text-align: right;">80</p> <p>1 okay; and we have procedures. And then based on their 2 best judgment and reviewing documents and -- you know, 3 all of our CSRs review hundreds of documents, then they 4 issue; and we've instructed them to be -- to be liberal 5 in their issuance of EICs.</p> <p>6 Q. Does any part of this regulation require that 7 an EIC application must present documentary proof of 8 citizenship?</p> <p>9 A. Well, any part of the regulation?</p> <p>10 Q. Uh-huh.</p> <p>11 A. It says here, "U.S. citizenship or 12 naturalization papers."</p> <p>13 Q. As one --</p> <p>14 A. Secondary identification, D.</p> <p>15 Q. Okay. And if an individual presented, 16 instead, the Subsection C as secondary identification?</p> <p>17 A. Original or certified copy of a court order 18 with the name, date of birth, indicating the official 19 name change?</p> <p>20 Q. Uh-huh.</p> <p>21 A. That doesn't indicate citizenship.</p> <p>22 Q. And if that person presented that document 23 with supporting documentation that also did not 24 establish citizenship, would that person have to 25 present independent documentary proof of citizenship?</p>

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21 (Pages 81 to 84)

<p style="text-align: right;">81</p> <p>1 A. If I understand your question correctly -- and</p> <p>2 I'll try and restate it.</p> <p>3 So a customer comes to the office. They</p> <p>4 have a certified copy of the court order, okay, that</p> <p>5 provides a name change and they don't have any other</p> <p>6 documentation that establishes that they are a United</p> <p>7 States citizen?</p> <p>8 Q. Yes.</p> <p>9 A. They would have to show that documentation.</p> <p>10 Q. And is that a requirement that's set out in</p> <p>11 this regulation?</p> <p>12 A. I don't know. I would have to -- I would have</p> <p>13 to run through it.</p> <p>14 Q. Okay. Do you know if it's set out in any</p> <p>15 other DPS regulation?</p> <p>16 A. Not to my knowledge. I don't know.</p> <p>17 Q. Can you look at -- under "Secondary</p> <p>18 Identification," which is Subsection 3, the first one</p> <p>19 listed under A, the birth certificate?</p> <p>20 A. Yes.</p> <p>21 Q. How much does it cost to obtain a certified</p> <p>22 copy of a birth certificate?</p> <p>23 A. I don't know.</p> <p>24 Q. You have no idea?</p> <p>25 A. No. My mother gave me mine, so I --</p>	<p style="text-align: right;">83</p> <p>1 offices; and if you try and issue an EIC, it's not even</p> <p>2 a prompt. So to explain, if -- for the driver license</p> <p>3 issuance, there's a series of screens that the CSR goes</p> <p>4 through; and it asks the individual -- you know, our</p> <p>5 CSRs, you know, get this information and ask the</p> <p>6 customer for that. And for a driver license or an ID,</p> <p>7 then the -- they're prompted for the -- for the</p> <p>8 fingerprints.</p> <p>9 But for an EIC, that prompt doesn't come</p> <p>10 up; and our mobile systems and the systems that we have</p> <p>11 in the counties don't have -- we didn't even buy the</p> <p>12 thumbprint scanners to afford them, so we don't collect</p> <p>13 them.</p> <p>14 Q. Do you know what the purpose of the original</p> <p>15 requirement to do fingerprints was?</p> <p>16 A. I could speculate. And my speculation is that</p> <p>17 it we collect thumbprints and fingerprints as part of</p> <p>18 the issuance for driver licenses and for ID cards, we</p> <p>19 try to make this process go the same way as others. We</p> <p>20 just included that in there.</p> <p>21 Q. And why did DPS decide to suspend that</p> <p>22 requirement?</p> <p>23 A. DPS was directed not to by the Secretary of</p> <p>24 State.</p> <p>25 Q. Did they explain their reasoning?</p>
<p style="text-align: right;">82</p> <p>1 It's old, but it's mine.</p> <p>2 MS. MARANZANO: We're going to need to --</p> <p>3 Let's go off the record for one second.</p> <p>4 THE REPORTER: Off the record.</p> <p>5 (Discussion off the record.)</p> <p>6 THE REPORTER: Back on the record.</p> <p>7 Q. (BY MS. MARANZANO) Okay. Can you look at</p> <p>8 15183?</p> <p>9 A. Can I --</p> <p>10 Q. Oh, sorry.</p> <p>11 A. I'm happy to. Give me a second.</p> <p>12 Q. It's Exhibit 38.</p> <p>13 A. Okay.</p> <p>14 Q. Okay. Subsection A, subpart 3.</p> <p>15 A. Subpart 3. Fingerprints. Yes.</p> <p>16 Q. Whose decision was it to include a</p> <p>17 fingerprinting requirement for EIC applicants?</p> <p>18 A. That, I don't know. I do know that it's no</p> <p>19 longer required, and it hasn't been required -- I'm not</p> <p>20 sure what the date is. It was -- it was early -- it</p> <p>21 was early in the EIC efforts, so that would put it late</p> <p>22 summer or early fall of last year. But the decision</p> <p>23 was made that -- not to collect them; and actually,</p> <p>24 it's almost a moot point on the equipment that we have.</p> <p>25 We've updated the equipment in your driver license</p>	<p style="text-align: right;">84</p> <p>1 A. I didn't ask. I certainly didn't ask.</p> <p>2 Q. Did DPS have any concern when it was</p> <p>3 collecting fingerprints that that would deter EIC</p> <p>4 applicants from applying for an EIC?</p> <p>5 A. I don't -- I don't -- I don't recall, no.</p> <p>6 Q. How did you communicate the change from</p> <p>7 collecting fingerprints to not collecting fingerprints</p> <p>8 to the public?</p> <p>9 A. Sure. To the public?</p> <p>10 Q. Uh-huh.</p> <p>11 A. And when you say "you," you mean DPS?</p> <p>12 Q. I do mean DPS.</p> <p>13 A. I don't -- I don't -- I'm unaware of anything</p> <p>14 the DPS did to -- to communicate that to the public.</p> <p>15 Q. Did any other state agencies communicate that</p> <p>16 to the public?</p> <p>17 A. They may have. I don't know.</p> <p>18 Q. Did DPS put an update on its web page?</p> <p>19 A. I don't -- I don't recall. It would be our</p> <p>20 standard practice, but I don't recall if we did or not.</p> <p>21 Q. Are you confident that no driver's license</p> <p>22 offices are currently fingerprinting EIC applicants?</p> <p>23 A. Well, as I've explained, we have no equipment</p> <p>24 that -- we can't do it, so -- and the counties can't do</p> <p>25 it and our mobiles can't do it, so the answer to your</p>

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22 (Pages 85 to 88)

<p style="text-align: right;">85</p> <p>1 question is, yes, I'm confident.</p> <p>2 Q. When the fingerprinting requirement was in</p> <p>3 effect --</p> <p>4 A. Yes.</p> <p>5 Q. -- what did DPS do with the fingerprints?</p> <p>6 A. That information, along with the documents</p> <p>7 that the applicant presented, were placed into the EIC</p> <p>8 portion of driver -- of the driver license database,</p> <p>9 which is -- that's a separate portion. It's separate</p> <p>10 and distinct from the ID cards and the driver licenses.</p> <p>11 Q. And what was done with that information?</p> <p>12 A. It was put there. I don't think anything was</p> <p>13 done with it.</p> <p>14 Q. Do you still maintain the fingerprints from</p> <p>15 applicants who were fingerprinted when this policy was</p> <p>16 in effect?</p> <p>17 A. Well, we were asked not to -- not to purge</p> <p>18 anything from our database. So as far as I know,</p> <p>19 whatever we may have collected is supposed to still be</p> <p>20 there because of what we're doing here today.</p> <p>21 Q. Is there any intention to use them in the</p> <p>22 future for anything -- for any reason?</p> <p>23 A. EIC fingerprints?</p> <p>24 Q. Yes.</p> <p>25 A. No, not to my knowledge.</p>	<p style="text-align: right;">87</p> <p>1 a legal opinion.</p> <p>2 But you can answer.</p> <p>3 THE WITNESS: The Secretary of State has</p> <p>4 directed us not to.</p> <p>5 Q. (BY MS. MARANZANO) Does the Secretary of</p> <p>6 State control in any way DPS' action?</p> <p>7 A. Control our action? With regard to what?</p> <p>8 Q. With regard to the EIC program.</p> <p>9 A. The Secretary of State, as far as the</p> <p>10 execution of the program? In some ways. I mean, when</p> <p>11 I'm -- by way of answering, what I would say is they're</p> <p>12 the ones that directed to go -- which counties to go to</p> <p>13 and which locations in those counties, and they're the</p> <p>14 ones that told us not to collect fingerprints.</p> <p>15 Q. Is there any requirement that you follow what</p> <p>16 the SOS directs you do with regard to the EIC program?</p> <p>17 MR. KEISTER: Object to form; vague and</p> <p>18 ambiguous.</p> <p>19 THE WITNESS: Go ahead?</p> <p>20 I take my -- I take my instructions from</p> <p>21 my chain of command. And what discussions that the</p> <p>22 Secretary of State have and DPS senior leadership have,</p> <p>23 I'm not a party to those. I'm not aware of any of</p> <p>24 those.</p> <p>25 Q. (BY MS. MARANZANO) And you take your</p>
<p style="text-align: right;">86</p> <p>1 Q. Are there any limitations on using EIC</p> <p>2 fingerprints in the future?</p> <p>3 A. Not to my knowledge.</p> <p>4 Q. Why has DPS not changed the regulation to</p> <p>5 remove the fingerprinting requirement?</p> <p>6 A. That's a good question. We haven't got around</p> <p>7 to updating our rules. It's as simple as that. We</p> <p>8 just haven't done it, and we need to.</p> <p>9 Q. Could DPS at any time decide to start a</p> <p>10 fingerprinting applicants again?</p> <p>11 A. In order to do that, we would have to field</p> <p>12 new equipment to 229 driver licenses offices in 55</p> <p>13 counties and the mobile units. So the short answer is,</p> <p>14 we don't have any plans to do that.</p> <p>15 Q. So there's no plans to do that, but is there</p> <p>16 any impediment other than sort of logistical?</p> <p>17 A. Well, we would have to rewrite the code for</p> <p>18 all the computers; and that would -- that would involve</p> <p>19 a significant amount of time and money. I mean,</p> <p>20 it's -- we're not funded for that. That's -- we have</p> <p>21 no plans to do that. We just got done fielding new</p> <p>22 stuff. Why would we want to go back and change?</p> <p>23 Q. Is there any legal impediment to DPS deciding</p> <p>24 to fingerprint applicants at some point in the future?</p> <p>25 MR. KEISTER: Object to form. Calls for</p>	<p style="text-align: right;">88</p> <p>1 direction from who?</p> <p>2 A. I take my direction from Paul Watkins and AD</p> <p>3 Peters.</p> <p>4 Q. Can you look at 15183, Subpart A, 1 and</p> <p>5 then --</p> <p>6 A. Subpart A.</p> <p>7 Q. -- and then capital A?</p> <p>8 A. Married woman. Is that what it says?</p> <p>9 Q. Yes. And then a couple of sentence in it</p> <p>10 says, "No name will be used that has not been</p> <p>11 documented"?</p> <p>12 A. Right.</p> <p>13 Q. Can you tell me what that means?</p> <p>14 A. It -- if you remember what I -- what I said</p> <p>15 previously and I used the term, "we connect the dots."</p> <p>16 So that's part of our effort to connect to dots to</p> <p>17 establish someone's identify. If a woman were to come</p> <p>18 to the office and she wanted to change her name and she</p> <p>19 presented a marriage license and she had -- and she had</p> <p>20 a birth certificate, let's say, so the marriage license</p> <p>21 and the birth -- the married name -- I'm sorry. The</p> <p>22 maiden name would have to match the birth certificate.</p> <p>23 But if there wasn't a match, then that wouldn't be a</p> <p>24 documented name change; or it could be a court order, I</p> <p>25 suppose.</p>

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23 (Pages 89 to 92)

<p style="text-align: right;">89</p> <p>1 Q. Does DPS require that names -- that the name</p> <p>2 of the applicant match exactly on the underlying</p> <p>3 documentation that the individual presents?</p> <p>4 A. Without seeing the differences, I can't answer</p> <p>5 that question. I would need to see the specifics. I</p> <p>6 mean, if the name was -- was Shelly on one document and</p> <p>7 Mary Lou on another, that would be a problem. But we</p> <p>8 would have -- I would have to see it, and I would have</p> <p>9 to -- and if I couldn't make a determination, then I</p> <p>10 would -- I'd ask -- I'd have to ask for advice.</p> <p>11 Q. Who would you ask for advice?</p> <p>12 A. Well, I mean, it would depend. We have -- we</p> <p>13 have counsel. I can ask for advice from if there's a</p> <p>14 problem with that.</p> <p>15 Q. So am I understanding you correctly that</p> <p>16 there's some discretion about the name -- how exactly</p> <p>17 the names match on the underlying documentation?</p> <p>18 A. Yes. But again, without seeing an exact</p> <p>19 example, I'd need -- I'd need to know. I would need to</p> <p>20 see that.</p> <p>21 Q. Okay.</p> <p>22 A. So I can't answer your question definitively.</p> <p>23 I need to see -- I need to see what you're talking</p> <p>24 about.</p> <p>25 Q. If the names are very different on the</p>	<p style="text-align: right;">91</p> <p>1 A. The customer service representative who</p> <p>2 processes the applicant reviews it for completeness.</p> <p>3 Q. Is that done on the spot while the individual</p> <p>4 is still in the office?</p> <p>5 A. Yes.</p> <p>6 Q. And if it's incomplete, will the person have</p> <p>7 an opportunity to complete it before they leave the</p> <p>8 office?</p> <p>9 A. The CSRs will -- will say, "You didn't fill</p> <p>10 out block X and such," and then the customer is asked</p> <p>11 to do that.</p> <p>12 Q. Okay. Does DPS conduct any types of checks on</p> <p>13 the applicants once the application is submitted?</p> <p>14 A. What do you mean "checks"?</p> <p>15 Q. Do they -- for example, do they check to</p> <p>16 ensure that the individual doesn't have another form of</p> <p>17 SB 14 compliant identification?</p> <p>18 A. SB 14?</p> <p>19 Q. Does the DPS employee check to ensure the</p> <p>20 individual doesn't already have a driver's license?</p> <p>21 A. For a driver's license, as I mentioned before,</p> <p>22 the customer service representative would -- if it's a</p> <p>23 Texas driver's license, we can check within our driver</p> <p>24 license system or the ID card system; and we can see if</p> <p>25 an if -- an ID card or a driver license has been</p>
<p style="text-align: right;">90</p> <p>1 underlying documentation --</p> <p>2 A. Then there's no connection.</p> <p>3 Q. -- and there's no connection, what does the</p> <p>4 DPS employee advise to that individual?</p> <p>5 A. We -- we ask the customer to provide</p> <p>6 documentation that would connect one name to the other.</p> <p>7 Q. Okay. When someone appears at a driver's</p> <p>8 license office and requests an EIC, what does the DPS</p> <p>9 employee do, sort of each step, to ensure that that</p> <p>10 individual is eligible for an EIC?</p> <p>11 A. Well, so when an applicant comes to one of our</p> <p>12 offices, they're greeted by one of our customer service</p> <p>13 representatives; and it's -- then there's a dialogue</p> <p>14 between the applicant and the CSR before any paperwork</p> <p>15 is done. It's something -- it's a greeting; and then,</p> <p>16 you know, what can we do for you today? And depending</p> <p>17 on what the customer says, then that would lead to</p> <p>18 further -- further discussion about, well, here are the</p> <p>19 forms that you need to fill out and have you brought</p> <p>20 the documentation. And then depending on how that went</p> <p>21 and -- you know, because there's a lot of different</p> <p>22 variables, then the customer could get issued their --</p> <p>23 whatever document they were after.</p> <p>24 Q. When a person submits an EIC application, does</p> <p>25 anyone at DPS review it for completeness?</p>	<p style="text-align: right;">92</p> <p>1 expired to the customer. I'm sorry -- has been issued</p> <p>2 to the customer, not expired.</p> <p>3 Q. And if there is a current driver's license</p> <p>4 issued to the customer, what does the DPS employee do</p> <p>5 at that point?</p> <p>6 A. They say, "Ma'am, you have -- you have a</p> <p>7 driver license and you can vote using your driver</p> <p>8 license. You don't need -- you don't need an EIC."</p> <p>9 Q. So that information is conveyed to the</p> <p>10 applicant while they are in the driver's license</p> <p>11 office?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. Does DPS do any background checks with</p> <p>14 the information that is obtained from the EIC</p> <p>15 application?</p> <p>16 A. Background checks?</p> <p>17 Q. Uh-huh.</p> <p>18 A. No.</p> <p>19 Q. Do they check for any outstanding tickets?</p> <p>20 A. No.</p> <p>21 Q. Do they check against the Texas Criminal</p> <p>22 Information Center?</p> <p>23 A. No.</p> <p>24 Q. Against the National Criminal Information</p> <p>25 Center?</p>

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24 (Pages 93 to 96)

<p style="text-align: right;">93</p> <p>1 A. No.</p> <p>2 Q. Do they do any immigration checks?</p> <p>3 A. No.</p> <p>4 Q. Do they check the United States Visitor and</p> <p>5 Immigration Status Indicator Technology?</p> <p>6 A. Not to my knowledge. I've never heard of</p> <p>7 that.</p> <p>8 Q. Do they check against the Interagency Border</p> <p>9 Inspection System?</p> <p>10 A. No.</p> <p>11 Q. Do they check for warrants?</p> <p>12 A. No.</p> <p>13 Q. Have they, at any time, checked for warrants?</p> <p>14 A. Driver license CSRs don't have the ability to</p> <p>15 check for warrants.</p> <p>16 Q. So they haven't, at any time, checked for</p> <p>17 warrants?</p> <p>18 A. They are able to.</p> <p>19 Q. Have they, at any time, done any of the other</p> <p>20 checks that we just talked about?</p> <p>21 A. Not to my knowledge.</p> <p>22 Q. Are law enforcement officials present at DPS</p> <p>23 offices?</p> <p>24 A. Well, the Department of Public Safety has law</p> <p>25 enforcement officials assigned to it and there may</p>	<p style="text-align: right;">95</p> <p>1 Q. Do you have any concern -- does DPS have any</p> <p>2 concerns that individuals will be deterred from</p> <p>3 applying for EICs because they believe a warrant check</p> <p>4 could be conducted?</p> <p>5 A. Not to my knowledge.</p> <p>6 Q. Does DPS have any concerns that individuals</p> <p>7 will be deterred from applying for an EIC at a law</p> <p>8 enforcement agency?</p> <p>9 A. No.</p> <p>10 Q. Have you heard any such concerns?</p> <p>11 A. No.</p> <p>12 (Exhibit No. 67 marked.)</p> <p>13 Q. (BY MS. MARANZANO) I'm showing you what we're</p> <p>14 marking as Exhibit 67 for the record. Can you take a</p> <p>15 look at it and let me know if you recognize this</p> <p>16 document?</p> <p>17 A. Yes.</p> <p>18 Q. Yes, you do recognize it?</p> <p>19 A. Yes.</p> <p>20 Q. Is this an accurate copy of an e-mail that you</p> <p>21 sent?</p> <p>22 A. Yes.</p> <p>23 Q. Can you look down at the second paragraph,</p> <p>24 there's a sentence that says, "In order to overcome</p> <p>25 this, A.D. Skyler Hearne" --</p>
<p style="text-align: right;">94</p> <p>1 be -- it's not uncommon for highway patrol or Rangers</p> <p>2 or CID to be co-located in some of our offices. Our</p> <p>3 offices aren't all standalone driver license offices.</p> <p>4 Q. And when an individual is applying for an EIC</p> <p>5 and you said these -- these various checks are not run,</p> <p>6 is some of this information nonetheless available to</p> <p>7 the DPS employee, sort of -- they can see the</p> <p>8 information on the screen such as outstanding tickets</p> <p>9 or --</p> <p>10 A. No, I don't believe so. Base on my</p> <p>11 observation of the driver license system, outstanding</p> <p>12 tickets and things like that aren't -- aren't</p> <p>13 available.</p> <p>14 Q. And is the same true for warrants?</p> <p>15 A. No, we don't do warrant checks.</p> <p>16 Q. So warrant checks would not be something that</p> <p>17 the employee could see on the screen?</p> <p>18 A. We don't have access to that, no.</p> <p>19 Q. Okay. Are warrant checks done when an</p> <p>20 individual is applying for a driver's license?</p> <p>21 A. Not by a driver license person, no.</p> <p>22 Q. Are you aware of a public perception that</p> <p>23 applying for IDs at DPS offices will trigger warrant</p> <p>24 checks?</p> <p>25 A. I'm not aware of it.</p>	<p style="text-align: right;">96</p> <p>1 A. Hearne.</p> <p>2 Q. -- "has determined that our personnel can use</p> <p>3 the regional communications centers to run a 1027 on</p> <p>4 the applicants to verify their eligibility to receive</p> <p>5 an EIC."</p> <p>6 A. Yes.</p> <p>7 Q. Did I read that correctly?</p> <p>8 A. Yes.</p> <p>9 Q. Can you tell me what a 1027 is?</p> <p>10 A. 1027 is a police term. It's a check for</p> <p>11 other -- as I understand it, it's a check for other</p> <p>12 documentation. So we ask -- if you were to run a 1027</p> <p>13 on me, it would come back and say that I have a dry</p> <p>14 reporter license and a CHL.</p> <p>15 Q. So this -- a 1027 only shows other forms of</p> <p>16 identification that an individual may have?</p> <p>17 A. Yes. I mean, I'm not a cop. That's how it</p> <p>18 was explained to me, that's how I understand it, yes.</p> <p>19 Q. And what are the forms of identification that</p> <p>20 you're checking for?</p> <p>21 A. Driver license, personal ID card, Texas</p> <p>22 personal ID card, or a concealed handgun license.</p> <p>23 Q. Only those three?</p> <p>24 A. As far as I know, yes.</p> <p>25 Q. And are -- are these checks still being done</p>

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25 (Pages 97 to 100)

<p style="text-align: right;">97</p> <p>1 on EIC applicants today?</p> <p>2 A. Yes. I would like to point out, these --</p> <p>3 these checks are done at mobile stations and at the</p> <p>4 county offices. They're not done in a -- in a driver</p> <p>5 license office.</p> <p>6 Q. I'm sorry, can you say that one more time?</p> <p>7 A. Sure. These checks, the 1027 --</p> <p>8 Q. Yeah.</p> <p>9 A. -- to A.D. Skyler Hearne, that's done through</p> <p>10 a mobile site or through a county office. It's not</p> <p>11 done in a driver license office because our employees</p> <p>12 can look to see if the -- if the applicant has an ID</p> <p>13 card or a driver license by looking in the driver</p> <p>14 license system.</p> <p>15 Q. I see. So a driver's license office does a</p> <p>16 similar check substantively, but in a different way; is</p> <p>17 that correct?</p> <p>18 A. That's a good way to put it, yes.</p> <p>19 Q. Okay. And the driver's license office, are</p> <p>20 they also checking for concealed handgun licenses or</p> <p>21 not?</p> <p>22 A. We can't check that. But in order to possess</p> <p>23 a concealed handgun license in the State of Texas, you</p> <p>24 must have a driver license or a Texas ID card.</p> <p>25 Q. Okay. If a DPS employee determines that an</p>	<p style="text-align: right;">99</p> <p>1 A. No.</p> <p>2 (Exhibit No. 68 marked.)</p> <p>3 Q. (BY MS. MARANZANO) Can you take a look at</p> <p>4 this document and tell me if you recognize it?</p> <p>5 A. Yes. It looks like it's an e-mail from Amelia</p> <p>6 Flores to me, October 24th.</p> <p>7 Q. Is this an accurate copy of an e-mail that you</p> <p>8 received?</p> <p>9 A. Yes.</p> <p>10 Q. Do you recall the situation that's described</p> <p>11 in the e-mail?</p> <p>12 A. I do. It was out of my region, but I do.</p> <p>13 Q. And do you -- can you read the bottom part?</p> <p>14 A. Sure.</p> <p>15 Q. Do you know whether that individual who is</p> <p>16 referred to in that e-mail who was told by DPS that he</p> <p>17 would need to surrender his out-of-state driver's</p> <p>18 license to obtain an EIC, do you know whether that</p> <p>19 individual left the office without applying for an EIC?</p> <p>20 A. I don't know. So that was in -- that was in</p> <p>21 Steve's region, so I don't know if the -- if the person</p> <p>22 left without an EIC. But -- but this discussion,</p> <p>23 that -- that triggered -- that resulted in the answer</p> <p>24 that I gave you. Now we know that we can't -- we can't</p> <p>25 ask for out-of-state drivers to show their licenses.</p>
<p style="text-align: right;">98</p> <p>1 applicant for an EIC has been issued a driver's</p> <p>2 license, but the applicant states that she has lost the</p> <p>3 driver's license, is that person eligible to obtain an</p> <p>4 EIC?</p> <p>5 A. Yes.</p> <p>6 Q. Does that person need to surrender her</p> <p>7 driver's license?</p> <p>8 A. Well, if they've lost it, they can't surrender</p> <p>9 it. I mean, they would -- they would fill out -- I</p> <p>10 believe it's on the form right here.</p> <p>11 Q. Do you want to refer --</p> <p>12 A. I want to refer back to whatever exhibit that</p> <p>13 y'all called the DL-14C.</p> <p>14 Q. Exhibit 64. Is it in there?</p> <p>15 A. There's a surrender document -- there's a</p> <p>16 surrender document that they can sign where they say,</p> <p>17 "I give it up, I surrender my driver license or ID</p> <p>18 card."</p> <p>19 Q. So the individual would complete a form saying</p> <p>20 they surrendered their driver's license?</p> <p>21 A. Yeah. But if they don't have it -- I mean,</p> <p>22 they don't possess it --</p> <p>23 Q. Is an applicant who has an out-of-state</p> <p>24 driver's license required to surrender their</p> <p>25 out-of-state driver's license to obtain an EIC?</p>	<p style="text-align: right;">100</p> <p>1 Q. Did DPS subsequently try to contact this</p> <p>2 individual?</p> <p>3 A. I don't know.</p> <p>4 Q. Are you aware of any other situations in which</p> <p>5 DPS employees have told EIC applicants that they would</p> <p>6 have to surrender their out-of-state driver's licenses</p> <p>7 to obtain EICs?</p> <p>8 A. I'm unaware of any.</p> <p>9 Q. Would you be aware of them if that had</p> <p>10 occurred?</p> <p>11 A. Yes.</p> <p>12 Q. Did DPS make the public aware that applicants</p> <p>13 for an EIC do not have to surrender their out-of-state</p> <p>14 driver's licenses?</p> <p>15 A. To my knowledge, DPS never did, no.</p> <p>16 Q. Are you aware of any other instances where DPS</p> <p>17 employees have told EIC applicants the incorrect</p> <p>18 criteria for obtaining an EIC?</p> <p>19 A. It comes up from time to time. I don't recall</p> <p>20 any specific instances. And, generally speaking, I</p> <p>21 mean, once they're -- once it's made aware to either</p> <p>22 myself or Steve Bell, the other regional senior</p> <p>23 manager, we try and resolve that as quickly as we can.</p> <p>24 I don't -- I don't think anything comes to mind, no.</p> <p>25 Q. Can you tell me approximately how many times</p>

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<p style="text-align: right;">101</p> <p>1 it's come up?</p> <p>2 A. No.</p> <p>3 Q. Because you don't know?</p> <p>4 A. Because I don't know, yeah.</p> <p>5 Q. Do you -- does DPS have any concerns that DPS</p> <p>6 employees are deferring individuals for applying from</p> <p>7 EICs by giving out incorrect information?</p> <p>8 A. Well, I mean, we have provided training for</p> <p>9 the employees and we -- we do a QA/QC process on the</p> <p>10 applicants. And, you know, we're concerned about</p> <p>11 providing incorrect information to any customer that</p> <p>12 comes to our office, not just the EIC customers.</p> <p>13 Q. And the QA/QC process is done on individuals</p> <p>14 who complete an application and submit it; is that</p> <p>15 correct?</p> <p>16 A. Yes.</p> <p>17 Q. Is there a QA/QC process on individuals who</p> <p>18 come into a driver's license office with a question</p> <p>19 about an EIC?</p> <p>20 A. There's no QA/QC, but we do keep -- we do keep</p> <p>21 track of that. We refer to those as inquiries.</p> <p>22 Q. Okay. Do you feel confident that the EIC</p> <p>23 rules are being followed by DPS employees?</p> <p>24 A. Yes.</p> <p>25 Q. Do you feel confident that the EIC rules will</p>	<p style="text-align: right;">103</p> <p>1 Q. Okay. And the quality control check that you</p> <p>2 referenced earlier --</p> <p>3 A. Yes.</p> <p>4 Q. -- who -- whose decision was it to do this</p> <p>5 quality control?</p> <p>6 A. I don't remember exactly who. I believe it</p> <p>7 came out in some discussions that we had, and the issue</p> <p>8 revolved around our -- around the -- the training that</p> <p>9 we provided for the counties. And what we wanted to be</p> <p>10 able to do was to ensure that we had the same level of</p> <p>11 quality in issuing documents, whether it was a county</p> <p>12 personnel or whether it was one of our own CSRs. And</p> <p>13 so, as a result of that, we have -- we have a QA/QC</p> <p>14 process and it's -- it's relatively quick. It goes</p> <p>15 between three and five days.</p> <p>16 Q. What does this process consist of?</p> <p>17 A. So the -- it differs slightly from -- from</p> <p>18 brick and mortar office to mobile. So I would like to</p> <p>19 talk about the brick and mortar office, and if you want</p> <p>20 me to I can talk about mobiles, too.</p> <p>21 Q. Okay.</p> <p>22 A. So the customer service representative</p> <p>23 receives the documents from the customer, okay, so the</p> <p>24 person comes and makes the application. They scan</p> <p>25 those documents, the DL-14C, and whatever else the</p>
<p style="text-align: right;">102</p> <p>1 are being followed by DPS employees 100 percent of the</p> <p>2 time?</p> <p>3 A. Well, I mean, in any human endeavor there's a</p> <p>4 margin of error.</p> <p>5 Q. Who makes the final determination of whether</p> <p>6 to issue an EIC applicant the temporary receipt that we</p> <p>7 talked -- that you referred to earlier when they're at</p> <p>8 the driver's license office?</p> <p>9 A. Right. So -- and I refer to that as a</p> <p>10 transaction receipt. That's the -- that's the -- the</p> <p>11 person who takes the application and processes it at</p> <p>12 the point of dealing with the customer.</p> <p>13 Q. So is that --</p> <p>14 A. The customer walks away with a transaction</p> <p>15 receipt if they have satisfied all of the other -- all</p> <p>16 of the requirements that we have established.</p> <p>17 Q. Is that a CSR?</p> <p>18 A. So a customer service representative -- and</p> <p>19 when I say a CSR, I'm referring to a DPS employee who</p> <p>20 works in driver license division, and there are also</p> <p>21 county employees. And they may issue a transaction</p> <p>22 receipt, but they're not -- they're not CSRs, they're</p> <p>23 county employees.</p> <p>24 Q. Okay.</p> <p>25 A. Or SOS employees or HHSs.</p>	<p style="text-align: right;">104</p> <p>1 customer is presented. And then those documents are</p> <p>2 placed in the -- on the EIC -- under the EIC tab in a</p> <p>3 separate database. And then the employees, or our</p> <p>4 licensing and record service, I call that LRS, they</p> <p>5 review the documents. They review the birth</p> <p>6 certificate and they make sure that the documents are</p> <p>7 legible and that there's no administrative error. And</p> <p>8 sometimes, as I said, there's error in anything humans</p> <p>9 do. Sometimes the CSR enters the wrong birthday and</p> <p>10 the birthday doesn't match up with the -- with the</p> <p>11 birth certificate. And they review those things and</p> <p>12 that type of information is what they're looking at.</p> <p>13 Q. What is done if DPS determines that a</p> <p>14 temporary EIC was issued in error?</p> <p>15 A. If a temporary EIC is issued in error and it</p> <p>16 goes through our QA/QC process at the license and</p> <p>17 records service, it would depend. If it's a clear-cut</p> <p>18 case where the LRS people feel confident that the</p> <p>19 documents either aren't accurate or they can -- they</p> <p>20 can contact the office. If they can't get other</p> <p>21 documents -- the customer can't provide other</p> <p>22 documents, then -- then the department would issue a</p> <p>23 letter from Austin headquarters to the applicant</p> <p>24 explaining the reason why they aren't being issued an</p> <p>25 EIC. In some cases, and I've looked at -- if it</p>

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<p style="text-align: right;">105</p> <p>1 requires my decision or Steve's -- Steve is the other 2 regional manager -- then the LRS reps will show them to 3 us and Steve or I will review all the documents. And 4 then, in those instances, if we -- if we issue, then I 5 write on the -- I handwrite, issue, I believe these 6 documents, I believe that, you know, there's not -- you 7 know, the names are substantially similar, or something 8 along those lines. And then that's scanned into the -- 9 the EIC as part of their record. So if somebody were 10 to come back and say, "Why did you do that?", I would 11 say, "Well, the documents that were presented to me, I 12 thought they were substantial so I said to go ahead and 13 issue." 14 Q. Okay. Does DPS also conduct a quality control 15 check when an individual applies for a driver's 16 license? 17 A. Well, there's -- there's a quality control 18 check that goes on, but because we issue seven million 19 driver licenses and ID cards on an annual basis, it's 20 not as -- it's not as thorough as we do for EICs. We 21 have only issued 271 or 272 EICs. I might be -- I 22 might be one EIC off. 23 Q. And why are you doing a more thorough quality 24 control check for EICs? 25 A. Well, it's because of the -- because of the</p>	<p style="text-align: right;">107</p> <p>1 can use that for voting." 2 Q. And when -- 3 A. Or there are other categories of -- of 4 inquiries. 5 Q. Does DPS record the names of the individuals 6 who make inquiries about EICs? 7 A. Sometimes. 8 Q. Why not all the time? 9 A. Sometimes the customer comes in and they 10 ask -- they ask a question about a free ID and we 11 explain to them what the EIC is and what it does for 12 them and what a Texas ID is and what it does for them 13 and they walk out. We don't -- we don't catch their 14 names. 15 Q. Has DPS considered trying to get all the names 16 of individuals who have questions about EICs so that if 17 follow-up was necessary, they could -- they could do 18 that, follow-up with the individual? 19 A. No. 20 Q. No, you haven't considered that? 21 A. No, we haven't. 22 Q. If DPS determines that incorrect information 23 was given to a potential EIC applicant, what are the 24 steps it takes? 25 A. Well, we -- since we don't collect anything of</p>
<p style="text-align: right;">106</p> <p>1 attention that's been paid to it and also because we 2 have such a few number, we're able to and we want to 3 make sure we're doing the right thing. 4 Q. And I just want to make sure I understood your 5 previous testimony correctly about the check that you 6 do when an individual wants to apply for an EIC, but 7 doesn't end up filling out the application. I believe 8 you said that -- 9 A. That's called an inquiry. 10 Q. Okay. 11 A. Okay. 12 Q. And so what kind of check do you do on that 13 information? 14 A. Well, there's really not a check. I can -- 15 can I show you something? Does that work? 16 MR. KEISTER: Well, just let her ask 17 questions. 18 Q. (BY MS. MARANZANO) You can just answer the 19 questions. 20 A. We just -- there's really not a check. If the 21 customer presents himself and says, "I want an EIC," 22 for instance, and in the dialogue between the customer 23 service representative and the customer, you know, "Do 24 you have a passport?" "Yep, I've got my valid U.S. 25 passport right here." "Well, sir, ma'am, you know, you</p>	<p style="text-align: right;">108</p> <p>1 the applicant, there's nothing we can do on that side. 2 We do -- we do counsel our CSR, and if we need to we 3 provide them remedial training to make sure they 4 don't -- they don't make the same mistake again. 5 Q. And do you give out any information to other 6 CSRs to make sure that same mistake isn't happening by 7 other DPS employees? 8 A. What kind of information? Specific to an 9 inquiry? 10 Q. If you determined that one CSR gave out 11 incorrect information, would you let everybody -- all 12 the CSRs or all the individuals who are issuing EICs 13 know about this mistake and what the correct way to 14 handle that situation is? 15 A. It would depend if I thought it was a systemic 16 problem. 17 Q. How would you determine whether it was a 18 systemic problem? 19 A. I would -- if I had the same -- the same kind 20 of issues would pop up and I would discuss it with the 21 chain of command through the regional managers. 22 Q. So if it's an issue that happens repeatedly, 23 then you'll let everybody know who is issuing EICs; is 24 that correct? 25 A. It would depend on what the issue is, but we</p>

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28 (Pages 109 to 112)

<p style="text-align: right;">109</p> <p>1 could -- I mean, there are a variety of ways we could</p> <p>2 do that.</p> <p>3 Q. And do you feel confident that you're --</p> <p>4 you're aware of the problems that are happening</p> <p>5 repeatedly?</p> <p>6 A. Yes.</p> <p>7 Q. What gives you that confidence?</p> <p>8 A. I have -- I have routine interaction with my</p> <p>9 regional managers. And if there's -- if there's a</p> <p>10 problem, I know that they'll talk to me. They're not</p> <p>11 shy about telling me.</p> <p>12 Q. Is DPS tracking the number of EICs that are</p> <p>13 issued?</p> <p>14 A. Yes.</p> <p>15 Q. And when did that begin?</p> <p>16 A. Well, I believe it started from the beginning</p> <p>17 of the program.</p> <p>18 Q. Whose decision was it to track the number of</p> <p>19 EICs that are issued?</p> <p>20 A. I can't remember, but we thought that since it</p> <p>21 was a new program, the discussion was that it should be</p> <p>22 something we should keep track of.</p> <p>23 Q. And do you compile reports on EICs? Is that</p> <p>24 part of your responsibility?</p> <p>25 A. I used to compile a report. And I -- I define</p>	<p style="text-align: right;">111</p> <p>1 Q. So let's start with talking about the time</p> <p>2 when you were gathering the information --</p> <p>3 A. Yes.</p> <p>4 Q. -- and pushing it out. Who was sending you</p> <p>5 that information?</p> <p>6 A. Well, I received the information from the</p> <p>7 regional managers.</p> <p>8 Q. Okay.</p> <p>9 A. And they received it from -- from the CSR or</p> <p>10 from their office supervisors.</p> <p>11 Q. And at the -- at the beginning, did you</p> <p>12 receive information twice a day; is that correct?</p> <p>13 A. I know that I was sending -- maybe. Things</p> <p>14 were things moved very quickly, so I received the</p> <p>15 information throughout the day. There was -- there was</p> <p>16 a period of time when I was making a daily EIC report.</p> <p>17 Q. Okay.</p> <p>18 A. And so I don't remember, but I know that I was</p> <p>19 producing -- I did that for -- I want to say it was a</p> <p>20 couple of weeks. And that -- that became very labor</p> <p>21 intensive, and so we changed the frequency of the</p> <p>22 report to weekly.</p> <p>23 Q. Okay.</p> <p>24 MS. MARANZANO: Can I have this marked?</p> <p>25 THE REPORTER: Exhibit 69.</p>
<p style="text-align: right;">110</p> <p>1 a report as it's a product that I get information from</p> <p>2 and I -- I create and then I send it out to people. So</p> <p>3 I compiled an EIC report starting in June. And first</p> <p>4 we had different -- varying the cycle of the report and</p> <p>5 the frequency of the report. And we stopped -- we</p> <p>6 stopped with the report itself, but we still track</p> <p>7 that -- we still track that information.</p> <p>8 Q. When did you stop with the report?</p> <p>9 A. We stopped sending the report -- and, again,</p> <p>10 the report -- so in order for me to answer the</p> <p>11 question, I have to give you -- so I view a report as a</p> <p>12 push, okay. So I gather information, I compile a</p> <p>13 report, and I push it out, I e-mail it to everybody who</p> <p>14 is here. So I push you the information. We track the</p> <p>15 information and the information has been tracked from</p> <p>16 the beginning of the program, but now it's more of a</p> <p>17 pull. And the information that we have is resident on</p> <p>18 a SharePoint site that's updated -- well, I won't say</p> <p>19 real time because that would be a hyperbole, but near</p> <p>20 real time. And if you want the report, if you have</p> <p>21 access to our SharePoint site, you can pull the report</p> <p>22 that you want.</p> <p>23 Q. Okay.</p> <p>24 A. Or you can pull the tracking information.</p> <p>25 It's not really a report.</p>	<p style="text-align: right;">112</p> <p>1 (Exhibit No. 69 marked.)</p> <p>2 Q. (BY MS. MARANZANO) Okay. I'm showing you</p> <p>3 what we have marked for the record as Exhibit 69. Do</p> <p>4 you recognize this document?</p> <p>5 A. I do.</p> <p>6 Q. Is this an accurate copy of an e-mail that you</p> <p>7 sent?</p> <p>8 A. Yes.</p> <p>9 Q. And can you tell me who the recipients of this</p> <p>10 e-mail are?</p> <p>11 A. Yes. On the "To" line?</p> <p>12 Q. Yeah.</p> <p>13 A. Thomas Carter -- how much specificity do you</p> <p>14 need? Do you just want me to say the regional managers</p> <p>15 in DPS?</p> <p>16 Q. That would suffice?</p> <p>17 A. The regional managers and assistant managers</p> <p>18 in DPS.</p> <p>19 Q. And does that also include the CC line?</p> <p>20 A. The cc line, those are some assistant managers</p> <p>21 in DPS. Paul Watkins, my direct supervisor, and Steve</p> <p>22 Bell, and I mentioned him before. He's the other</p> <p>23 regional manager -- or, I'm sorry, the other senior</p> <p>24 manager.</p> <p>25 Q. And in terms of the regional managers, those</p>

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29 (Pages 113 to 116)

<p style="text-align: right;">113</p> <p>1 are individuals that you supervise, correct?</p> <p>2 A. That's not an accurate statement. I supervise</p> <p>3 Sam Silva. He's the regional manager for Region 3.</p> <p>4 Estella Valenzuela, Region 4; Tomas Valdez, Region 5;</p> <p>5 Barbara Hubbard, 6A; Joe Garcia, 6B; Tom Carter, Kathy</p> <p>6 Bergman, Salesus Winkley, and Johnnie Berkley, those</p> <p>7 are the regional managers for DPS Regions 1A, 1B, 2A,</p> <p>8 and 2B. They're supervised by Steve Bell, who is on</p> <p>9 the cc line.</p> <p>10 Q. With regard to the EIC program, since you were</p> <p>11 the point of contact for that program, would you say</p> <p>12 you supervise them with regard to EICs?</p> <p>13 A. I wouldn't use that term, but I -- because --</p> <p>14 because, to my mind, "supervisory" means that I</p> <p>15 evaluate them somehow or I'm somehow in their</p> <p>16 administrative chain. I have -- I can -- I can tell</p> <p>17 them what to do regarding EICs.</p> <p>18 Q. Okay.</p> <p>19 A. All right.</p> <p>20 Q. That's what I was looking for in terms of</p> <p>21 explaining the role.</p> <p>22 So can you look at the date that this was</p> <p>23 sent?</p> <p>24 A. June 26th.</p> <p>25 Q. Is that -- do you know how that date relates</p>	<p style="text-align: right;">115</p> <p>1 our routine, the same way that we do everything else.</p> <p>2 So that was -- that was obviously an inaccurate</p> <p>3 statement.</p> <p>4 Q. Can you look at the last sentence of this</p> <p>5 e-mail?</p> <p>6 A. "Thank you for your patience."</p> <p>7 Q. It says, "I will need negative activity</p> <p>8 reports to feed the machine up here," the second to</p> <p>9 last sentence.</p> <p>10 A. "I know this sounds redundant," yes.</p> <p>11 Q. What did you mean by that?</p> <p>12 A. The whole thing?</p> <p>13 Q. By "we need negative activity reports."</p> <p>14 A. A negative activity report, as I understand</p> <p>15 that and based on my experience, is that you need to</p> <p>16 hear something from somebody just to know that they're</p> <p>17 out there. So when I say a negative activity report,</p> <p>18 if you were one of my office supervisors or if you were</p> <p>19 one of my regional managers, I would expect you to come</p> <p>20 back and say, "I did not issue any EICs today." And I</p> <p>21 do that as -- I did that as a forcing function because</p> <p>22 if you work for me and I'm asking you to provide me</p> <p>23 with information, then -- and even if you come back and</p> <p>24 say, "Tony, there's no -- we have had no EICs," then I</p> <p>25 have a reasonable expectation that you've done your due</p>
<p style="text-align: right;">114</p> <p>1 to when you started issuing EICs?</p> <p>2 A. If I'm not mistaken, that's -- that's either</p> <p>3 the beginning or roughly when we -- or when the DPS was</p> <p>4 told to -- told to issue EICs.</p> <p>5 Q. Okay. Can you read the first sentence of this</p> <p>6 e-mail?</p> <p>7 A. Yes. "Folks, election certificates will be a</p> <p>8 big deal for the next week to ten days. Expect to be</p> <p>9 peppered with requests regarding the number of EICs" --</p> <p>10 I'm sorry -- "the number of certificates we have issued</p> <p>11 and if there are any problems with issuance. We should</p> <p>12 expect this as a normal course of events."</p> <p>13 Q. What did you mean by "a big deal for the next</p> <p>14 week to ten days"?</p> <p>15 A. Well, in light of the -- in light of the</p> <p>16 decision and in light of the directive for us to issue</p> <p>17 these documents, I thought that it would be very</p> <p>18 important.</p> <p>19 Q. What decision are you referring to?</p> <p>20 A. The decision to issue EICs.</p> <p>21 Q. Okay. And is there a reason that you thought</p> <p>22 the EICs would be a big deal for a week to ten days?</p> <p>23 A. Well, that was -- I didn't realize -- I</p> <p>24 thought that after a week to ten days that it would --</p> <p>25 things would settle and it would be a normal part of</p>	<p style="text-align: right;">116</p> <p>1 diligence and you've checked with your subordinates and</p> <p>2 that you know if any have been done.</p> <p>3 Q. Why were you assuming right at the beginning</p> <p>4 of this EIC program that the reports would be negative?</p> <p>5 A. No. They're -- no, I'm asking for information</p> <p>6 and it could be, "I've issued an EIC," okay, that would</p> <p>7 be a report to my mind, or, "I didn't issue an EIC," in</p> <p>8 which case we haven't issued any, that would be</p> <p>9 negative. But I wasn't assigning any negative</p> <p>10 connotations to that. That's just the way I talk.</p> <p>11 Q. So when you said "negative activity reports,"</p> <p>12 you referred -- you meant that to mean either active</p> <p>13 reports in which an EIC was issued or in which an EIC</p> <p>14 was not issued?</p> <p>15 A. What I wanted to hear from the -- the regional</p> <p>16 managers was I wanted to know -- I wanted to hear from</p> <p>17 them whether they had issued an EIC or they hadn't. In</p> <p>18 other words, if no one had come into the office, then I</p> <p>19 expected to have -- to have the regional managers tell</p> <p>20 me, "Nobody came into the office." So there's not an</p> <p>21 assumption -- there's a -- there's a -- there's</p> <p>22 communication between both of us where I know that</p> <p>23 you've checked and nobody has come into your office and</p> <p>24 I know that for a fact.</p> <p>25 Q. Did you have any concerns about using this</p>

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30 (Pages 117 to 120)

<p style="text-align: right;">117</p> <p>1 wording that it might suggest that you were looking for</p> <p>2 a negative report, in other words, that EICs had not</p> <p>3 been issued?</p> <p>4 A. I'm not sure we're communicating right. So</p> <p>5 the -- it didn't matter whether an EIC had been issued</p> <p>6 or not, okay. That's not -- that's neither positive</p> <p>7 nor negative.</p> <p>8 Q. Okay.</p> <p>9 A. What I wanted to get from the regional</p> <p>10 managers was, I wanted to know if somebody had come in</p> <p>11 or if somebody had not come in. And when I say</p> <p>12 somebody had not -- nobody had come in, that would be</p> <p>13 what I -- what I call -- what I have called for 22</p> <p>14 years, a negative report.</p> <p>15 Q. Okay. So why did you use the words "negative</p> <p>16 report" if you wanted it to capture both when somebody</p> <p>17 had come in and when somebody didn't come in?</p> <p>18 A. That's just the way I write. I mean, that's</p> <p>19 the way I -- ask my kids, that's the way I tell it.</p> <p>20 Q. Did you have any concerns that you were</p> <p>21 suggesting a certain outcome by using the words</p> <p>22 "negative activity report"?</p> <p>23 A. Not until right now.</p> <p>24 Q. What did you mean by "feed the machine"?</p> <p>25 A. That's a term that I use. It's a -- a machine</p>	<p style="text-align: right;">119</p> <p>1 A. It should have been, yes.</p> <p>2 Q. Was it shared with the governor's office?</p> <p>3 A. I don't know.</p> <p>4 Q. Was it shared with the lieutenant governor's</p> <p>5 office?</p> <p>6 A. I don't know.</p> <p>7 Q. I believe earlier you testified that when</p> <p>8 somebody appears at a driver's license office and</p> <p>9 expresses an interest in obtaining an EIC, but does not</p> <p>10 have the required underlying documentation, that person</p> <p>11 is reported as an inquiry; is that right?</p> <p>12 A. Not necessarily.</p> <p>13 Q. Okay. How is that person recorded?</p> <p>14 A. So give me the scenario again, please.</p> <p>15 Q. An individual wants to apply for an EIC, but</p> <p>16 does not have the required underlying documentation.</p> <p>17 A. Well, it could be reported as an inquiry. But</p> <p>18 if they -- if they were seeking an EIC, then we would</p> <p>19 send -- we would tell -- we would tell them what they</p> <p>20 needed to have to satisfy the requirements. I never</p> <p>21 thought about it that way. I guess the short answer is</p> <p>22 I don't know.</p> <p>23 Q. Is it possible that person would not get</p> <p>24 recorded at all?</p> <p>25 A. It's possible, yes.</p>
<p style="text-align: right;">118</p> <p>1 is a system and -- and the system runs on information</p> <p>2 and we have to know and that's why I ask for reports</p> <p>3 whether people had come into the office or not.</p> <p>4 Because -- because if you -- if you were my supervisor,</p> <p>5 for instance, and I said, "Well, five people went into</p> <p>6 five offices," then you would want to know if anything</p> <p>7 else had gone on. It would be my -- the way I view it,</p> <p>8 it would be my responsibility to tell you, "We only had</p> <p>9 five and nobody else came in." And I would have to be</p> <p>10 certain of that information.</p> <p>11 Q. And who is the machine in this case?</p> <p>12 A. Well, I'm part of the machine because I'm</p> <p>13 responsible for the program.</p> <p>14 Q. Who else is part of the machine?</p> <p>15 A. Well, I mean, "the machine" is a slang term</p> <p>16 for -- for the system. I refer to it as headquarters.</p> <p>17 Q. And by that, you mean DPS leadership?</p> <p>18 A. Well, certainly my leadership needed to know</p> <p>19 that.</p> <p>20 Q. Your leadership being DPS?</p> <p>21 A. Being -- well, yes. So it would be Paul</p> <p>22 Watkins and Joe Peters. They're the ones that I</p> <p>23 reported to on EICs.</p> <p>24 Q. Do you know if this information was also</p> <p>25 shared with the secretary of state's office?</p>	<p style="text-align: right;">120</p> <p>1 Q. Okay.</p> <p>2 A. I mean -- now, when I answer that question, we</p> <p>3 have -- we have talked to our staff repeatedly on the</p> <p>4 importance of collecting information on inquiries.</p> <p>5 So -- but, yes, of course, it's possible.</p> <p>6 Q. Why did you not include in this e-mail to your</p> <p>7 staff a request to include information about inquiries?</p> <p>8 A. I don't know. That was an oversight.</p> <p>9 Because -- because it was the 26th of June and we had</p> <p>10 just started and didn't know what we needed to get.</p> <p>11 Q. Are you confident that you have consistently</p> <p>12 received information about EIC inquiries --</p> <p>13 A. Yes.</p> <p>14 Q. -- from all offices issuing EICs?</p> <p>15 A. Yes.</p> <p>16 Q. And what gives you that confidence?</p> <p>17 A. Because we have a quality QA/QC check, as I</p> <p>18 discussed previously, done by LRS. So when a -- I'm</p> <p>19 sorry, are you talking about issuances or inquiries?</p> <p>20 Q. I'm talking about inquiries.</p> <p>21 A. Oh, inquiries. Well, I have a reasonable</p> <p>22 confidence. We have -- we have told the chain of</p> <p>23 command, we have talked to the CSRs about it. By and</p> <p>24 large, my experience has been they're conscientious</p> <p>25 employees. I think they're doing their job, so, yes.</p>

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31 (Pages 121 to 124)

<p style="text-align: right;">121</p> <p>1 Q. Is it possible that you did not receive</p> <p>2 reporting on all EIC applicants who wanted to apply for</p> <p>3 an EIC, but did not possess the underlying required</p> <p>4 documentation?</p> <p>5 MR. KEISTER: Objection, calls for</p> <p>6 speculation.</p> <p>7 Q. (BY MS. MARANZANO) You can answer.</p> <p>8 A. I don't know. It's possible, I suppose.</p> <p>9 Q. Who -- what categories of people do get</p> <p>10 recorded in the inquiry field?</p> <p>11 A. I believe there's -- it's general, so we have</p> <p>12 had people come in and they ask general information.</p> <p>13 And sometimes these are election officials and they</p> <p>14 just want to educate themselves or they're customers</p> <p>15 who think that they want a free ID card. And we have a</p> <p>16 way to categorize each one of those people who don't</p> <p>17 have the documents, perhaps, or they need to go get the</p> <p>18 documents, that kind of business.</p> <p>19 Q. Okay. And did you say people who might want</p> <p>20 to use the EIC for something else?</p> <p>21 A. I don't know. Did I?</p> <p>22 Q. If somebody came in -- let me just back up and</p> <p>23 ask.</p> <p>24 A. Yeah.</p> <p>25 Q. If somebody wanted to apply for an EIC --</p>	<p style="text-align: right;">123</p> <p>1 other forms of identification that we can provide to</p> <p>2 them, like a Texas ID card, which can be used for</p> <p>3 identification purposes. But I've never heard -- it's</p> <p>4 never been brought to my attention -- or I don't think</p> <p>5 it's been brought to my attention that we have denied</p> <p>6 service to a customer who has said, "I want to take</p> <p>7 this and use it for something else." I don't recall</p> <p>8 anything like that.</p> <p>9 Q. And the other forms of identification that</p> <p>10 you're referring to, do they all cost some amount of</p> <p>11 money to obtain?</p> <p>12 A. They do.</p> <p>13 Q. Does DPS compile these reports that it was</p> <p>14 getting into a larger analysis?</p> <p>15 A. Which reports?</p> <p>16 Q. The reports that you were getting from the</p> <p>17 customer service representatives.</p> <p>18 A. I don't believe so, no.</p> <p>19 Q. Is there any compilation of the number of</p> <p>20 people who tried to apply for an EIC, but lacked a</p> <p>21 birth certificate?</p> <p>22 A. A compilation?</p> <p>23 Q. Uh-huh.</p> <p>24 A. It's on a spreadsheet that we keep and we</p> <p>25 would have to go through there. But -- so I suppose --</p>
<p style="text-align: right;">122</p> <p>1 A. Right.</p> <p>2 Q. -- but they wanted to use it for another</p> <p>3 purpose other than voting, is that somebody who</p> <p>4 would -- who would be permitted to apply for an EIC if</p> <p>5 they expressed their desire to the DPS employee?</p> <p>6 A. I think you asked me this question before. I</p> <p>7 guess it would depend. I mean, it's -- we issue the</p> <p>8 EIC to the customer.</p> <p>9 Q. Uh-huh.</p> <p>10 A. And we explain to the customer what it's used</p> <p>11 for, what its intended use is for. If the customer</p> <p>12 goes and uses it for something else, to purchase</p> <p>13 something or to prove something to a third party,</p> <p>14 that's -- that's, I guess, the purview of that third</p> <p>15 party. But we inform the customer that that's not the</p> <p>16 purpose.</p> <p>17 Q. Uh-huh. And I guess what I'm asking you is,</p> <p>18 if the customer expresses that desire to the DPS</p> <p>19 employee when they're applying --</p> <p>20 A. Uh-huh.</p> <p>21 Q. -- does the DPS employee then -- do they</p> <p>22 refuse to issue the EIC on that basis?</p> <p>23 A. I've never heard of that happening.</p> <p>24 Q. You've never heard of that?</p> <p>25 A. We advise the customer that the -- there are</p>	<p style="text-align: right;">124</p> <p>1 I suppose the answer is yes.</p> <p>2 Q. You have a spreadsheet of everyone who wanted</p> <p>3 to apply for an EIC, but lacked a birth certificate?</p> <p>4 A. We have a spreadsheet of every EIC application</p> <p>5 and it also indicates whether it's valid or invalid and</p> <p>6 the reason why it was valid or invalid.</p> <p>7 Q. And if somebody at a driver's license office</p> <p>8 wants to apply for an EIC, but doesn't have a birth</p> <p>9 certificate, would -- is it possible they wouldn't</p> <p>10 actually fill out an EIC application?</p> <p>11 A. That doesn't make any sense.</p> <p>12 Q. Does it --</p> <p>13 A. Would you restate that?</p> <p>14 Q. I thought that you testified earlier that when</p> <p>15 an individual enters a driver's license office and</p> <p>16 wants to obtain an EIC --</p> <p>17 A. Yes.</p> <p>18 Q. -- there's a dialogue about what's required to</p> <p>19 obtain an EIC.</p> <p>20 A. Yes, yes, yes.</p> <p>21 Q. If that person doesn't have some of the</p> <p>22 underlying documentation, isn't it possible they might</p> <p>23 leave without completing an EIC application?</p> <p>24 MR. KEISTER: Objection, form, calls for</p> <p>25 speculation.</p>

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32 (Pages 125 to 128)

<p style="text-align: right;">125</p> <p>1 THE WITNESS: I don't know what they</p> <p>2 would do.</p> <p>3 (Exhibit No. 70 marked.)</p> <p>4 THE REPORTER: Exhibit 70.</p> <p>5 Q. (BY MS. MARANZANO) Okay. I'm showing you</p> <p>6 what we have marked for the record as Exhibit 70. Do</p> <p>7 you recognize this document?</p> <p>8 A. I do.</p> <p>9 Q. Is this an accurate copy of an e-mail that you</p> <p>10 sent?</p> <p>11 A. Yes.</p> <p>12 Q. Do you see at the bottom of the page the</p> <p>13 e-mail that we just spoke about?</p> <p>14 A. I do.</p> <p>15 Q. And then there's a response from Mr. Winkley?</p> <p>16 A. Salestus Winkley, yes.</p> <p>17 Q. Who is Mr. Winkley?</p> <p>18 A. Salestus Winkley is the regional manager for</p> <p>19 DPS Region 1A.</p> <p>20 Q. Is he responsible for determining whether to</p> <p>21 issue an EIC applicant an EIC in his -- in the offices</p> <p>22 that he oversees?</p> <p>23 A. Well, within our hierarchy, he could be -- I</p> <p>24 mean, the -- we have a chain of command, but he's the</p> <p>25 regional manager. So if an issue was referred to him,</p>	<p style="text-align: right;">127</p> <p>1 have that number. That was a negative activity report,</p> <p>2 so now I know that nobody went into his office. I</p> <p>3 didn't have to make an assumption on whether he had</p> <p>4 people go -- customers seeking EICs or not. He</p> <p>5 provided me the information. And, in this instance, it</p> <p>6 was zero and zero was the information that I was</p> <p>7 looking for.</p> <p>8 Q. So when you said "zero is a good number,"</p> <p>9 you're saying that that didn't have any -- you weren't</p> <p>10 referring to the number zero itself when you said</p> <p>11 that's a good number?</p> <p>12 A. Well, he provided me the information that I</p> <p>13 wanted, okay. And, in this instance, it was zero. 15</p> <p>14 could have been a good number because I had the</p> <p>15 information that I needed in order to fill out my</p> <p>16 report.</p> <p>17 Q. Did you consider how the recipient of the</p> <p>18 e-mail, Mr. Winkley, would respond to the statement</p> <p>19 "zero is a good number"?</p> <p>20 A. Salestus knows me well enough to know how I</p> <p>21 speak.</p> <p>22 Q. If you had received an e-mail that said "zero</p> <p>23 is a good number," what would you have thought that</p> <p>24 meant?</p> <p>25 A. I would have thought that I provided him with</p>
<p style="text-align: right;">126</p> <p>1 then he would be the one responsible.</p> <p>2 Q. And so he supervises employees who are issuing</p> <p>3 EICs; is that correct?</p> <p>4 A. Yes. Yes, he does.</p> <p>5 Q. Okay. Can you look at your reply to</p> <p>6 Mr. Winkley?</p> <p>7 A. Yep.</p> <p>8 Q. What do you mean by "zero is a good number"?</p> <p>9 A. That goes back to the discussion on the -- on</p> <p>10 the e-mail below.</p> <p>11 Q. Uh-huh.</p> <p>12 A. And then when I say that I need negative</p> <p>13 activity reports. So as I was saying before, so now I</p> <p>14 know that Salestus has had nobody go and an ask for an</p> <p>15 EIC.</p> <p>16 Q. Were you saying that issuing -- that not</p> <p>17 issuing any EICs is a desirable outcome?</p> <p>18 A. No.</p> <p>19 Q. Why is -- have you ever expressed the view</p> <p>20 that issuing zero driver's licenses is a positive</p> <p>21 outcome, is a good -- good thing?</p> <p>22 A. No. I was referring to the number, so he</p> <p>23 provided me information that I needed. And, in this</p> <p>24 instance, he hadn't issued and that's what I needed in</p> <p>25 order to report to my chain of command and I needed to</p>	<p style="text-align: right;">128</p> <p>1 the information that he was looking for and, in this</p> <p>2 instance, that was zero and that was okay.</p> <p>3 Q. Do you think that an employee might be</p> <p>4 deferred from issuing EICs to eligible applicants when</p> <p>5 someone supervising the program says it's a good thing</p> <p>6 not to issue any EIC applications?</p> <p>7 MR. KEISTER: Objection, form. That</p> <p>8 mischaracterizes the previous testimony.</p> <p>9 THE WITNESS: Say that again, please.</p> <p>10 Q. (BY MS. MARANZANO) Do you think that an</p> <p>11 employee might be deterred from issuing EICs, even to</p> <p>12 eligible applicants, when a supervisor of the program</p> <p>13 says it's a good thing to issue zero?</p> <p>14 A. Well --</p> <p>15 MR. KEISTER: Objection -- same</p> <p>16 objection.</p> <p>17 THE WITNESS: I'll answer anyway.</p> <p>18 MR. KEISTER: Okay.</p> <p>19 THE WITNESS: No, because we have -- we</p> <p>20 have told the employees to be liberal in how they look</p> <p>21 at documents and to err on the side of issuance. So</p> <p>22 that's the first instance.</p> <p>23 And the second instance is the</p> <p>24 communication between Salestus and I, and Salestus</p> <p>25 knows how I speak and how I express myself.</p>

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33 (Pages 129 to 132)

<p style="text-align: right;">129</p> <p>1 Q. (BY MS. MARANZANO) Did you consider whether</p> <p>2 sending this e-mail would discourage employees from</p> <p>3 issuing EICs?</p> <p>4 A. I did not.</p> <p>5 Q. Have you said similar things to other DPS</p> <p>6 employees?</p> <p>7 MR. KEISTER: Objection, vague.</p> <p>8 THE WITNESS: Not that I can recall.</p> <p>9 Q. (BY MS. MARANZANO) Do you believe that DPS</p> <p>10 should not be responsible for issuing EICs?</p> <p>11 A. I believe that we should be responsible for</p> <p>12 issuing EICs.</p> <p>13 Q. Do you believe that EICs should be made</p> <p>14 available to individuals?</p> <p>15 A. Yes.</p> <p>16 (Exhibit No. 71 marked.)</p> <p>17 Q. (BY MS. MARANZANO) I'm showing you what we</p> <p>18 have marked for the record as Exhibit 71. Do you</p> <p>19 recognize this document?</p> <p>20 A. I do.</p> <p>21 Q. Is this an accurate copy of an e-mail that you</p> <p>22 received?</p> <p>23 A. Yes.</p> <p>24 Q. And also an accurate copy of an e-mail you</p> <p>25 sent?</p>	<p style="text-align: right;">131</p> <p>1 Q. -- in response to your response for EIC</p> <p>2 reports?</p> <p>3 A. Yes.</p> <p>4 Q. And your response to that was, "No inquiries</p> <p>5 either. This is getting better by the day."</p> <p>6 A. Yes.</p> <p>7 Q. What did you mean by that?</p> <p>8 A. Tom Carter is an old Navy man. So I</p> <p>9 understood his report to be that he hadn't had any</p> <p>10 activity and that was the negative report that I had</p> <p>11 asked for, the negative activity report that I spoke</p> <p>12 about earlier. And so he didn't get any inquiries. I</p> <p>13 wanted to know if he got any inquiries, and he responds</p> <p>14 about that that he hadn't got any. And when I say</p> <p>15 "this is getting better by the day," we thought we were</p> <p>16 going to have -- we thought we were going to have a lot</p> <p>17 of customers. And so it just looked like nobody was</p> <p>18 coming in. We had gone through and worked to set up a</p> <p>19 system in place, but nobody was coming in.</p> <p>20 Q. And did you consider it a good thing that</p> <p>21 nobody was coming in?</p> <p>22 A. I was just stating a fact.</p> <p>23 Q. And the fact is that it was getting better</p> <p>24 than by the day?</p> <p>25 A. The fact is that nobody was coming in.</p>
<p style="text-align: right;">130</p> <p>1 A. Yes.</p> <p>2 Q. Okay, thank you. Can you take a look at the</p> <p>3 initial message on the bottom of the page?</p> <p>4 A. The one that was dated 5 July, yes.</p> <p>5 Q. And so, at this point, did you change the</p> <p>6 frequency of which you were collecting EIC reports?</p> <p>7 A. Well, it says here, "Just to follow-up, I only</p> <p>8 need your EIC reports once a day at 4:00." So, yes.</p> <p>9 Q. And that happened on July 5th; is that</p> <p>10 correct?</p> <p>11 A. Yes.</p> <p>12 Q. And who made the decision to change the number</p> <p>13 of times you were gathering information from twice a</p> <p>14 day to once a day?</p> <p>15 A. I discussed it with Joe Peters. My</p> <p>16 recommendation was that since -- since I was spending a</p> <p>17 lot of time producing EIC reports that I wanted to go</p> <p>18 from twice a day to once a day.</p> <p>19 Q. Okay. And so was it Mr. Peters' decision to</p> <p>20 do that?</p> <p>21 A. It was my recommendation, but he okayed it.</p> <p>22 Q. And can you tell me, do you see that</p> <p>23 Mr. Carter sent you an e-mail that said, "Negative</p> <p>24 today" --</p> <p>25 A. Yes.</p>	<p style="text-align: right;">132</p> <p>1 Q. And why did you characterize that as "getting</p> <p>2 better"?</p> <p>3 A. Well, we had gone and established an</p> <p>4 infrastructure of reporting, and so we had expended a</p> <p>5 lot of time and effort to work on something, but nobody</p> <p>6 was coming in. So that was sarcasm.</p> <p>7 Q. And your characterization of that was that</p> <p>8 that was a good thing?</p> <p>9 A. No. It was -- it was merely -- it was merely</p> <p>10 a special frustration that we had prepared for</p> <p>11 something, but it hadn't happened. We had prepared for</p> <p>12 a football game, but nobody showed up.</p> <p>13 Q. So "this is getting better by the day" is an</p> <p>14 express of frustration?</p> <p>15 A. My frustration.</p> <p>16 Q. Did you consider how Mr. Carter might take</p> <p>17 that statement?</p> <p>18 A. Well, as I mentioned, again, Tom's a Navy guy.</p> <p>19 So Tom and I were able to -- were able to talk. Tom</p> <p>20 knows me well enough that when I say things, I use</p> <p>21 military vernacular, that he takes it for what it's</p> <p>22 worth.</p> <p>23 Q. Did you have any concern that you were</p> <p>24 suggesting that no EIC activity is a good thing?</p> <p>25 A. No. That wasn't what I was implying.</p>

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34 (Pages 133 to 136)

<p style="text-align: right;">133</p> <p>1 Q. Any concern that this message might discourage 2 DPS employees from issuing EICs -- EICs even to 3 eligible applicants? 4 A. Since that would run contrary to the training 5 and the instructions we had given them, no. 6 Q. Did you say similar things to other DPS 7 employees? 8 A. I may have. 9 Q. Any specific recollections, as you sit here 10 today? 11 A. No. I mean -- 12 Q. Have you ever made a similar comment about 13 driver's licenses? 14 A. Not to my knowledge, no. 15 Q. Have you ever made a similar comment about 16 personal identification cards? 17 A. Not to my knowledge. 18 Q. Have you ever made a similar comment about a 19 license to carry concealed handguns? 20 A. Driver license division doesn't deal with 21 concealed handgun licenses. 22 Q. So would that be a no? 23 A. That would be, we don't have anything to do 24 with concealed handgun licenses. 25 Q. Okay.</p>	<p style="text-align: right;">135</p> <p>1 correct? 2 A. The bottom one was sent on July 15th, yes. 3 Q. Yes. And, at this time, did you change the 4 reporting cycle to a weekly reporting cycle? 5 A. Well, let's see. 6 Q. I'm looking at the -- 7 A. Yeah, I know. I'm reading it, too. "We are 8 changing the reporting cycle from daily to weekly," 9 yes. 10 Q. Whose decision was that? 11 A. That was -- that was Joe Peters decision based 12 on my recommendation. 13 Q. What was your recommendation based on? 14 A. My recommendation was based on the amount of 15 time that we were -- that we spent working on EICs and 16 compiling the information. 17 Q. Okay. 18 A. It didn't -- it seemed to me that the -- that 19 my assessment was that a daily report that captured all 20 the information that occurred during the day was a more 21 effective one than one in the morning and one in the 22 evening because sometimes you get those reports mixed 23 up. So my recommendation -- I'm sorry -- then a daily 24 report, you get that information mixed up. If you 25 didn't collect it all at the end of the week, you can</p>
<p style="text-align: right;">134</p> <p>1 (Exhibit No. 72 marked.) 2 THE REPORTER: Exhibit 72. 3 MS. MARANZANO: Thanks. 4 Q. (BY MS. MARANZANO) I'm showing what we are 5 marking for the record as Exhibit 72. Do you recognize 6 this document? 7 A. Yes. 8 Q. Is this an accurate copy of an e-mail that you 9 sent and received? 10 A. Yes. 11 Q. And on the bottom e-mail, who are the 12 individuals that this e-mail was sent to? 13 A. Let's see. Well, it's the regional managers; 14 Joe Peters, Paul Watkins, and Steve Bell. Janie Smith 15 and Lori are policy people. Enrique was one of our 16 tech solutions people. He doesn't work for us anymore. 17 Joe Mastracchio is a DAD, a deputy assistant director. 18 Ron Grahovec works for LI. John Crawford is one of our 19 IT guys. Tom Vinger is one of our meeting 20 communications people. So is Katherine Cesinger. 21 Stephanie Hunter is an assistant manager in one of the 22 regions. It escapes me which one. So is Charles 23 Wells, David Barber, Barbara Munoz, and Carolina 24 Segundo. 25 Q. And this e-mail was sent on July 15th; is that</p>	<p style="text-align: right;">136</p> <p>1 have what I call a roll-up, which is a compilation of 2 all the -- all the information -- all the activity that 3 happened in the previous week. 4 Q. And after you went to weekly report, did you 5 ever change it back to getting reports more frequently 6 than once a week? 7 A. Well, I don't think we changed the reports. I 8 mentioned that we do a poll. So if you want the 9 information right now, you can go to the SharePoint 10 site and you can pull the information. If you want it 11 20 minutes from now, you can go back and pull the same 12 information. But I don't recall me producing a report 13 and pushing it out to anybody to go back. I may have, 14 but I don't -- I don't recall, no. 15 Q. Okay. 16 MS. MARANZANO: Can I mark this? 17 THE REPORTER: Exhibit 73. 18 (Exhibit No. 73 marked.) 19 Q. (BY MS. MARANZANO) I'm showing you what we 20 have marked as Exhibit 73 for the record. Do you 21 recognize this document? 22 A. Yes. 23 Q. Is this an accurate copy of an e-mail you sent 24 on the bottom of the page? 25 A. Yes, June 27th.</p>

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35 (Pages 137 to 140)

<p style="text-align: right;">137</p> <p>1 Q. And can you tell me, does it say, "Sir, we 2 continue our clean sweep. No EICs issued. We have had 3 a close call on Vantage Park, but the customer opted 4 out and left the office"? 5 A. Yes. 6 Q. Did I read that correctly? 7 A. Yeah, you did good. 8 Q. Thank you. What did I -- what did you mean by 9 "close call"? 10 A. The customer just didn't want it. 11 Q. What did you mean by "clean sweep"? 12 A. That we -- I would need to see the document on 13 there, but based on the inference, it seems to me that 14 we really hadn't any EICs that were issued. 15 Q. Are you aware of why this customer opted out 16 and left the office? 17 A. No. It may be in the database someplace, in 18 our spreadsheet. 19 Q. Why did you choose to use these words, "clean 20 sweep," "close call"? 21 A. That's just the way that I speak. When you do 22 something your entire adult life, it's just how you -- 23 I'm sure you have the same -- same colloquialisms and 24 terms. That's just what I've done. 25 Q. Did you have any concern that describing an</p>	<p style="text-align: right;">139</p> <p>1 employees from issuing an election certificate to a 2 customer that was supposed to get one. 3 Q. (BY MS. MARANZANO) You don't have any 4 concerns about the language that you used being 5 discouraging to DPS employees? 6 A. No. 7 Q. Is it DPS's responsibility to implement the 8 EIC program in a way that ensures an eligible EIC 9 applicant can obtain an EIC? 10 A. Yes. 11 Q. Is it DPS's responsibility to make the EIC 12 process as easy as possible for an EIC applicant? 13 A. Within the constraints of the law, yes. 14 (Exhibit No. 74 marked.) 15 THE REPORTER: Exhibit 74. 16 Q. (BY MS. MARANZANO) Can you take a look at 17 this and tell me if you recognize it? 18 A. Yes. 19 Q. What is this? 20 A. This appears to be an EIC report that I sent 21 for a -- it looks like it's a weekly report. 22 Q. Can you turn to the second page? Actually, 23 let me clarify. When you say "weekly report," this is 24 the information that you were receiving from the 25 regional offices and putting into one piece of</p>
<p style="text-align: right;">138</p> <p>1 individual who wanted -- who was expressing interest in 2 applying for an EIC as a close call would discourage 3 individuals working for you from issuing EICs? 4 A. Certainly not. That would run contrary to the 5 training and the guidance that we had given them. 6 Q. But you're also supervising the EIC program, 7 correct? 8 A. Right. 9 Q. And you're using words like "close call" to 10 describe somebody who is interested in obtaining an 11 EIC, correct? 12 A. That's just the way that I speak. 13 Q. So you think that when you send a message and 14 there's training that has a contrary message that 15 employees will follow the training as opposed to what 16 their supervisor is telling them? 17 MR. KEISTER: Objection, form. That's 18 vague and mischaracterizes previous testimony. 19 THE WITNESS: Thank you. I wouldn't say 20 that it was a contrary message. That's the way that I 21 express myself. And -- and I don't think that -- that 22 anything that I've done in my actions towards the 23 customers or the guidance that we have put out in our 24 training procedures or during our conference calls or 25 anything like that would discourage our -- our</p>	<p style="text-align: right;">140</p> <p>1 information and pushing out; is that correct? 2 A. I would refer to this as a product. So I 3 received information from the offices, I consolidated 4 it into this product, and I pushed this out. 5 Q. Okay. On the second page, under Hidalgo 6 County -- 7 A. Yes. 8 Q. Inquiry for information only, there's a -- one 9 person is listed as, "Customer was needing supporting 10 document." And the one below that, "Customer was 11 needing birth certificate." 12 A. Are you talking about La Joya City Hall, Unit 13 No. 17? 14 Q. Yes. 15 A. And Weslaco Business and Visitors Center, Unit 16 No. 17? 17 Q. Yes. 18 A. Yes. 19 Q. Do all offices distinguish between applicants 20 lacking birth certificates and applicants lacking other 21 forms of supporting documentation? 22 A. I'm not sure it's a -- I'm not sure it's a 23 hard distinction because a birth certificate is 24 documented. It just depends on who is entering the 25 report and how they refer to it.</p>

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<p style="text-align: right;">141</p> <p>1 Q. Have you provided offices with any guidance 2 for tracking individuals who lack birth certificates? 3 A. No. 4 Q. And, previously, I believe you said that an 5 individual who lacked the underlying documentation may 6 or may not be recorded as an inquiry on this report; is 7 that correct? 8 A. Yes. 9 Q. Okay. Can you turn to the third page under 10 Region 3? 11 A. At the very bottom? 12 Q. Uh-huh. 13 A. Yes. 14 Q. Do you see that there's an individual -- or 15 there's three -- I guess, three individuals listed as, 16 "Inquiry, did not have proof of citizenship"? 17 A. Uh-huh. 18 Q. Does that three indicate how many individuals 19 fall into that category? 20 A. That's how I understand it. 21 Q. Okay. And is that based on basically what we 22 have talked about earlier, that individuals are 23 required to -- required to present some sort of 24 documentary proof of citizenship when they apply? 25 A. Yes.</p>	<p style="text-align: right;">143</p> <p>1 Q. (BY MS. MARANZANO) How many EIC applicants 2 have been unable -- or potential EIC applicants have 3 been unable to obtain an EIC because they lacked 4 documentary proof of citizenship? 5 A. I -- I don't know. I would have to go and 6 look -- look in our spreadsheet in order to provide 7 that information. 8 Q. Do you know approximately how many? 9 A. No, I don't. 10 Q. Are you still doing okay? Do you need -- 11 A. Well, I'll need some more water in a bit. 12 Q. We'll push through a little bit longer. 13 A. That's fine. 14 Q. Okay. 15 THE REPORTER: Off the record. 16 (Discussion off the record.) 17 THE REPORTER: On the record. 18 (Exhibit 75 marked.) 19 Q. (BY MS. MARANZANO) I'm showing you what we've 20 marked as Exhibit 75 for the record. 21 A. Give me a second. 22 Q. Yep. 23 A. I have it. 24 Q. Can you take a look at this and tell me if you 25 recognize it?</p>
<p style="text-align: right;">142</p> <p>1 Q. Okay. How many times has a person sought to 2 apply for an EIC, but lacked the underlying 3 documentation? 4 A. An individual? 5 Q. Uh-huh. 6 A. I don't know. 7 Q. But that's information that you have some 8 tracking system for; is that correct? 9 A. Not to the individual -- not to the -- not 10 down to the individual, I don't think. 11 Q. Okay. 12 A. I don't believe, no. 13 Q. How many times has an individual attempted to 14 apply for an EIC, but been denied because they didn't 15 have documentary proof of citizenship? 16 A. I don't know. 17 MR. KEISTER: Objection, vague. And I 18 think, counsel, that -- I think you're confused about 19 him saying "an individual." I think he thinks you're 20 thinking about one individual coming back as opposed 21 to -- as opposed to how many individuals. 22 MS. MARANZANO: Let me rephrase my 23 question. 24 MR. KEISTER: I think. I apologize, I'm 25 sorry if I'm wrong.</p>	<p style="text-align: right;">144</p> <p>1 A. Sure. 2 Q. What is this? 3 A. Well, it's two-page document. So the front 4 part is an e-mail. The back part looks like it's a 5 report of inquiries and issuances for mobile stations 6 in at least two counties. 7 Q. Can you look at the top inquiry box? 8 A. Uh-huh. 9 Q. It says, "Number of inquiries that did not 10 qualify, one"? 11 A. Yes. 12 Q. And then the remarks, "Did not meet ID 13 policy." 14 What does that mean? 15 A. It means that the applicant wasn't able to 16 provide the identification documents that we require in 17 order to issue an EIC. 18 Q. So is that another way of saying the applicant 19 did not provide the required underlying documents? 20 A. Yes. 21 Q. Do you break out -- in that remark column, do 22 you break out documents that show identification as 23 opposed to documents that show citizenship or something 24 else? 25 A. I don't -- I don't recall any instruction to</p>

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<p style="text-align: right;">145</p> <p>1 do that. A lot of that would be up to the individual</p> <p>2 who was putting the information into the blocks.</p> <p>3 Q. Okay.</p> <p>4 A. I don't -- I don't recall if we had any -- any</p> <p>5 reporting standards that broke it down that way.</p> <p>6 Q. Okay. Did you ever provide guidance to</p> <p>7 individuals in terms of how to record the information</p> <p>8 that they were sending to you?</p> <p>9 A. I don't recall doing that.</p> <p>10 Q. Okay.</p> <p>11 (Exhibit 76 marked.)</p> <p>12 Q. (BY MS. MARANZANO) I'm showing you what we've</p> <p>13 marked as Exhibit 76.</p> <p>14 Do you recognize this document?</p> <p>15 A. I do.</p> <p>16 Q. What is this?</p> <p>17 A. This is an e-mail from -- there's two e-mails</p> <p>18 in there. There's an e-mail from myself out to the</p> <p>19 regional managers who work for me, sent on September</p> <p>20 the 14th. And then there was a response the next day</p> <p>21 from Sam Silva, who's the regional manager for DPS</p> <p>22 Region No. 3.</p> <p>23 Q. Do you see that second entry in the box of --</p> <p>24 can you take a look at that?</p> <p>25 A. It says 9, slash, 14, 2013, Weslaco station?</p>	<p style="text-align: right;">147</p> <p>1 customer may have a lot of things. We've accepted</p> <p>2 affidavits from people who were present at the birth of</p> <p>3 a customer saying that, you know, he was born in such</p> <p>4 and such a county. It would depend on that.</p> <p>5 Q. So DPS will accept documents that prove birth</p> <p>6 that aren't a certified copy of the birth certificate?</p> <p>7 Is that what I'm hearing you say?</p> <p>8 A. We have -- we have discretion in the documents</p> <p>9 that we do accept; but again, it would -- it would</p> <p>10 depend on the other documents that were provided.</p> <p>11 We -- when -- remember what I said about the -- the --</p> <p>12 the lower the quality -- and I'm not saying that in a</p> <p>13 pejorative way; but the farther you get from the driver</p> <p>14 license and the ID card, the more we rely on a mass of</p> <p>15 documents. So if we had a number of documents, then we</p> <p>16 could -- if the customer also had a Social Security</p> <p>17 card or knew the Social Security number. We call them</p> <p>18 numies. We could have that or an affidavit or there</p> <p>19 are other things. There could be tribal memberships</p> <p>20 and things like that. We can accept a lot of things to</p> <p>21 help show that a customer was born in the United</p> <p>22 States.</p> <p>23 Q. Doesn't the regulation specify what you can</p> <p>24 accept?</p> <p>25 A. The regulation?</p>
<p style="text-align: right;">146</p> <p>1 Q. Yes. Exactly.</p> <p>2 A. Yes.</p> <p>3 Q. Do you see that the inquiry says that that</p> <p>4 individual never had a US birth certificate?</p> <p>5 A. That's what it says, yes.</p> <p>6 Q. What's the appropriate way to handle an</p> <p>7 applicant who says that they never had a US birth</p> <p>8 certificate?</p> <p>9 A. Well, we -- we asked the customer to prove</p> <p>10 their citizenship. My father hasn't got a US birth</p> <p>11 certificate. He's a naturalized citizen. He show his</p> <p>12 naturalization card.</p> <p>13 Q. What if an individual is born in United States</p> <p>14 but doesn't have a birth certificate, how is that</p> <p>15 applicant handled?</p> <p>16 A. There are a variety of ways that we can help</p> <p>17 mitigate that.</p> <p>18 Q. What are those ways?</p> <p>19 A. There may be a midwife certificate. There may</p> <p>20 be census documentation. There may be other</p> <p>21 documentation that we get from the Social Security</p> <p>22 agency. And it goes back to what I mentioned earlier</p> <p>23 about the supporting documentation in that the farther</p> <p>24 you get from the driver license or the identification</p> <p>25 card, the more other documentation that you need. The</p>	<p style="text-align: right;">148</p> <p>1 Q. Uh-huh. That we looked at earlier.</p> <p>2 A. You mean the rule?</p> <p>3 Q. Yes.</p> <p>4 A. The rule -- I need to go back and refer to it,</p> <p>5 but I think that it also says other documents. And we</p> <p>6 can -- we do have some discretion which other ones we</p> <p>7 deal with.</p> <p>8 Q. And the other document -- the other document</p> <p>9 is -- the discretion to accept other documents is one</p> <p>10 of the items listed in the supporting document</p> <p>11 category; is that correct?</p> <p>12 A. Yes.</p> <p>13 Q. And doesn't the regulation require that</p> <p>14 somebody show, along with the supporting documentation,</p> <p>15 at least one of the forms of secondary ID?</p> <p>16 A. It does. But some customers might not have</p> <p>17 that. It would depend on the customer.</p> <p>18 Q. When a customer doesn't have that, you're</p> <p>19 willing to forego the requirement that they show the</p> <p>20 secondary?</p> <p>21 A. Well, there's not a foregoance. It's that we</p> <p>22 accept other documents that give us a reasonable --</p> <p>23 that would -- that make us reasonably certain that that</p> <p>24 individual is who they represent themselves to be.</p> <p>25 Q. Is that permitted by the regulation, as you</p>

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<p style="text-align: right;">149</p> <p>1 read it?</p> <p>2 A. By the rule?</p> <p>3 Q. Uh-huh.</p> <p>4 A. Well, we certainly do it, yes.</p> <p>5 Q. Is it a DPS discretionary decision?</p> <p>6 A. DPS has discretion, and driver license</p> <p>7 exercises discretion when dealing with customers.</p> <p>8 Q. So is this policy written down or memorialized</p> <p>9 anywhere?</p> <p>10 A. Well, it's -- it's in our -- in it's our --</p> <p>11 our admin rules, and it's also part of our training as</p> <p>12 a part of our procedures.</p> <p>13 Q. Which admin rules is it in?</p> <p>14 A. The ones that we discussed earlier. The --</p> <p>15 we're talking about EICs now? Are we talking about --</p> <p>16 Q. We're talk about EICs.</p> <p>17 A. Okay. So it's -- it's in the admin rules that</p> <p>18 we spoke about earlier. What is that, 15? Whatever it</p> <p>19 is.</p> <p>20 Q. But the admin rules actually say something</p> <p>21 different, correct?</p> <p>22 A. The -- we're allowed discretion in what we</p> <p>23 accept.</p> <p>24 MR. KEISTER: It may be on that. I'm not</p> <p>25 sure.</p>	<p style="text-align: right;">151</p> <p>1 would go to the assistant manager and the regional</p> <p>2 manager; and they would come to me.</p> <p>3 Q. And the CSR, if they turn somebody away</p> <p>4 because they don't think the documentation is</p> <p>5 sufficient to establish identity, that -- that</p> <p>6 person -- they may not have gotten that person's name</p> <p>7 or contact information; is that correct?</p> <p>8 A. It would depend on where they are in the</p> <p>9 process.</p> <p>10 Q. What do you mean by that?</p> <p>11 A. Well, so the customer would come and provide</p> <p>12 the filled out application, the DL 14; and we would</p> <p>13 have -- in that instance, we would have the customer's</p> <p>14 name and some contact information.</p> <p>15 Q. So if the person has already completed the</p> <p>16 application, you would have the person's name and</p> <p>17 contact information?</p> <p>18 A. Yes.</p> <p>19 Q. And if you determine that somebody in that</p> <p>20 situation was given incorrect information, do you</p> <p>21 follow up with that applicant?</p> <p>22 A. We could, yes. The office supervisors would</p> <p>23 do that.</p> <p>24 Q. Is that something you do?</p> <p>25 A. It's not something I do, necessarily; but it's</p>
<p style="text-align: right;">150</p> <p>1 THE WITNESS: I think it's these other</p> <p>2 documents in the -- it's in the 521. I can't -- I</p> <p>3 can't remember it right now.</p> <p>4 Q. (BY MS. MARANZANO) It's your testimony that</p> <p>5 DPS has discretion to determine what documents are</p> <p>6 sufficient?</p> <p>7 A. We have some discretion, yes.</p> <p>8 Q. Some discretion and --</p> <p>9 A. We can't accept nothing.</p> <p>10 Q. Can you, as you sit here today, tell me what</p> <p>11 you could accept?</p> <p>12 A. I would need to see what it was. And it would</p> <p>13 depend on what the customer provided.</p> <p>14 Q. So --</p> <p>15 A. It's -- it's very much a -- it's very much an</p> <p>16 individual case-by-case basis. I need to see what the</p> <p>17 customer or the office personnel -- I need to see what</p> <p>18 the customer gives us or what they bring.</p> <p>19 Q. And it's -- and the case-by-case determination</p> <p>20 is being made by whom?</p> <p>21 A. Well, initially, it's made by the people in</p> <p>22 the office, our CSRs in the office. If they have a</p> <p>23 question -- and they can refer it to their office</p> <p>24 supervisor, who makes a determination based on their</p> <p>25 experience. If they have a question, of course, they</p>	<p style="text-align: right;">152</p> <p>1 something that the department would try to do if we're</p> <p>2 able to. We prefer the customer get the documents</p> <p>3 that -- the identification documents that they're --</p> <p>4 that they want and that they need.</p> <p>5 Q. And in terms of the documents that are</p> <p>6 presented --</p> <p>7 A. Uh-huh.</p> <p>8 Q. -- is there any DPS office policy or office</p> <p>9 guideline that lays out what CRS's or other individuals</p> <p>10 issuing EICs are supposed to be looking for in terms of</p> <p>11 this case-by-case determination?</p> <p>12 A. Well, it's based on their experience as driver</p> <p>13 license employees. So there's a standard training that</p> <p>14 they all go through. It's an eight-week training</p> <p>15 program. It's also based on their experience working</p> <p>16 in those offices and accepting documents and referring</p> <p>17 questions to their supervisors who have a tremendous</p> <p>18 amount of experience in seeing identification</p> <p>19 documents -- a variety of identification documents.</p> <p>20 Q. And do you see on this document that we're</p> <p>21 looking, this particular customer was told that he</p> <p>22 could not be processed.</p> <p>23 Do you see that?</p> <p>24 A. I do.</p> <p>25 Q. And do you feel that that was the</p>

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<p style="text-align: right;">153</p> <p>1 appropriate -- you believe that was appropriate way to</p> <p>2 handle this situation?</p> <p>3 A. Well, it's -- he had never had a US birth</p> <p>4 certificate, and he couldn't be processed. That's all</p> <p>5 I know about the transaction.</p> <p>6 Q. Uh-huh. Is there -- does it -- it doesn't</p> <p>7 describe any of the other alternatives that you just</p> <p>8 mentioned to me, does it?</p> <p>9 A. No, ma'am.</p> <p>10 Q. If the -- if the DPS employee had explained</p> <p>11 that, would that be captured in this report, explained</p> <p>12 that the individual had the option of providing any one</p> <p>13 of the different documents you've just described to me?</p> <p>14 A. All I know about the report is what's written</p> <p>15 here on the e-mail. I don't know what other exchanges</p> <p>16 took place between the employee and the customer.</p> <p>17 Q. And you testified earlier that you haven't</p> <p>18 given employees guidance on what information they</p> <p>19 should be capturing in these reports; is that correct?</p> <p>20 A. That's true.</p> <p>21 Q. Okay.</p> <p>22 MS. MARANZANO: Is everybody okay?</p> <p>23 THE WITNESS: I would like to take a</p> <p>24 break, if that's all right.</p> <p>25 (Lunch recess from 12:26 p.m. to 1:13 p.m.)</p>	<p style="text-align: right;">155</p> <p>1 election cycles when we conducted after action reviews</p> <p>2 to look at what we did and see what we could improve.</p> <p>3 But other than that, no.</p> <p>4 Q. Okay. And I want to talk to you a little bit</p> <p>5 more about that. But in terms of looking at the fact</p> <p>6 that you have issued no EICs, did DPS change any of its</p> <p>7 publicity about the EIC program?</p> <p>8 A. Not -- not to my knowledge.</p> <p>9 Q. Did DPS make any changes to any educational</p> <p>10 outreach efforts?</p> <p>11 A. Not to my knowledge, no.</p> <p>12 Q. Did you or anybody else at DPS do any</p> <p>13 follow-up with the employees actually issuing EICs?</p> <p>14 A. Other than the after action reviews that we</p> <p>15 spoke about, no.</p> <p>16 Q. And can you tell me what these after action</p> <p>17 reviews are?</p> <p>18 A. An after action review is a -- it's a military</p> <p>19 term, and what you do is you look at what you were</p> <p>20 asked to do, what your mission was, and then you look</p> <p>21 at -- you look at it in terms of things that you had</p> <p>22 done well and, therefore, need to be sustained and</p> <p>23 things that need -- areas that need improvement.</p> <p>24 Q. And what did you determine that you had done</p> <p>25 well in these after action reviews?</p>
<p style="text-align: right;">154</p> <p>1 THE REPORTER: Back on the record.</p> <p>2 MS. MARANZANO: Okay. Back on the</p> <p>3 record.</p> <p>4 Q. (BY MS. MARANZANO) Am I correct that you</p> <p>5 testified earlier that the first several weeks that DPS</p> <p>6 was issuing EICs you didn't actually issue any EICs?</p> <p>7 A. To the best of my recollection, that's right.</p> <p>8 I don't remember -- I don't remember when we issued our</p> <p>9 first EIC.</p> <p>10 Q. What did you attribute that to, the lack of</p> <p>11 issuing EICs?</p> <p>12 A. I don't -- I don't recall.</p> <p>13 Q. Did DPS evaluate the program at any time since</p> <p>14 you've been issuing EICs?</p> <p>15 A. What do you -- how do you mean "evaluate"?</p> <p>16 Q. Was there any conversation about the fact that</p> <p>17 you hadn't issued any EICs?</p> <p>18 A. Only that we hadn't issued any.</p> <p>19 Q. Was there any conversation or deliberation</p> <p>20 about making any changes to the EIC program?</p> <p>21 A. What kind of changes?</p> <p>22 Q. Was there any conversation or deliberation</p> <p>23 about making any changes?</p> <p>24 A. The -- the only conversations that we've had</p> <p>25 regarding changing the EIC program have come after the</p>	<p style="text-align: right;">156</p> <p>1 A. Well, it would -- the specifics would depend</p> <p>2 on which after action review you're talking about.</p> <p>3 Q. How many have you done?</p> <p>4 A. Two.</p> <p>5 Q. So why don't you tell me for each one what --</p> <p>6 what you thought was a success, what you thought was</p> <p>7 going well in the program in each after action report.</p> <p>8 A. Sure. So to the best of my knowledge, the</p> <p>9 discussion revolved around what had gone well with the</p> <p>10 logistics and our ability to constitute the mobile EIC</p> <p>11 units and then to get them to the county that we had</p> <p>12 been asked to provide service in as an example of what</p> <p>13 we did well. And we recognized that an area that we</p> <p>14 needed to improve on was the -- our internal data</p> <p>15 tracking and also our media communications.</p> <p>16 Q. And why did you determine that you needed to</p> <p>17 improve your data and tracking system?</p> <p>18 A. Well, it wasn't so much the information that</p> <p>19 we were collecting. It was that there were a lot of --</p> <p>20 we had seen those reports and the report -- the</p> <p>21 frequency of the report changed and we talked about how</p> <p>22 we should -- how we should get -- provide information.</p> <p>23 Q. And you're referring to the reports that we</p> <p>24 looked at earlier in your e-mails?</p> <p>25 A. Those reports that I produced, yes.</p>

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<p style="text-align: right;">157</p> <p>1 Q. Okay. And in terms of the media and</p> <p>2 communications, why did you decide that that needed to</p> <p>3 have some improvement?</p> <p>4 A. There was an internal -- it was an internal</p> <p>5 communications between the driver license media point</p> <p>6 of contact and the DPS media and communications point</p> <p>7 of contact.</p> <p>8 Q. What caused you to think that it needed to be</p> <p>9 improved?</p> <p>10 A. It was -- it was just based on comments that</p> <p>11 we had at the after action review.</p> <p>12 Q. What -- can you remember any of those</p> <p>13 comments?</p> <p>14 A. I don't remember specific comments. I</p> <p>15 remember that -- that our median -- media guy, he -- he</p> <p>16 had a difficulty understanding where we were -- where</p> <p>17 we were going to go to provide services.</p> <p>18 Q. Was there a concern that the media DPS was</p> <p>19 providing was not accurate?</p> <p>20 A. No, that wasn't a concern. It was that he</p> <p>21 didn't understand. The way we depicted the</p> <p>22 information, he -- it wasn't laid out in a way he could</p> <p>23 understand it. He was looking for something</p> <p>24 alphabetical and it was chronological.</p> <p>25 Q. And so the -- when you say media</p>	<p style="text-align: right;">159</p> <p>1 A. To the best of my knowledge those are the</p> <p>2 dates.</p> <p>3 Q. Okay. So one -- to the best of your</p> <p>4 knowledge, one was done after the November 2013</p> <p>5 election and one was done after the March 2014</p> <p>6 election?</p> <p>7 A. Yes.</p> <p>8 Q. Okay.</p> <p>9 (Exhibit No. 77 marked.)</p> <p>10 THE REPORTER: Exhibit 77.</p> <p>11 Q. (BY MS. MARANZANO) I'm showing you what we've</p> <p>12 marked as Exhibit 77. Do you recognize this document?</p> <p>13 A. I do.</p> <p>14 Q. What is this?</p> <p>15 A. This is a -- appears to be a spreadsheet dated</p> <p>16 the 3rd of February with a list of names and the EICs</p> <p>17 that were issued to individuals, location, and type of</p> <p>18 office.</p> <p>19 Q. And can you turn to the -- the last page,</p> <p>20 which, I think, is the fifth page.</p> <p>21 A. It starts with, "Delgado, Monica"?</p> <p>22 Q. Yes.</p> <p>23 A. Yes.</p> <p>24 Q. What is that list?</p> <p>25 A. This appears to be a list of applicants who</p>
<p style="text-align: right;">158</p> <p>1 communications needed to improve, you're talking about</p> <p>2 internal communications to your media people?</p> <p>3 A. Internal from driver license to -- to the DPS</p> <p>4 media communications.</p> <p>5 Q. Okay. Was there any evaluation of your</p> <p>6 external media communications?</p> <p>7 A. Not on our part.</p> <p>8 Q. Was that part of the after action review?</p> <p>9 A. Which part?</p> <p>10 Q. An evaluation of your external media.</p> <p>11 A. No.</p> <p>12 Q. Was part of the after action review an</p> <p>13 analysis of how many EICs had been issued?</p> <p>14 A. No.</p> <p>15 Q. You didn't -- you didn't consider that at all?</p> <p>16 A. It was merely a statement of fact. We issued</p> <p>17 X number.</p> <p>18 Q. When -- you said there were two of these after</p> <p>19 action reviews that you've done?</p> <p>20 A. Yes.</p> <p>21 Q. And when were they done?</p> <p>22 A. They were done after the election. I don't</p> <p>23 have the exact dates. I believe one of them was</p> <p>24 November and I believe the second one was -- was March.</p> <p>25 Q. March?</p>	<p style="text-align: right;">160</p> <p>1 were not issued EICs.</p> <p>2 Q. And are all of these individuals, individuals</p> <p>3 who actually submitted a complete application to DPS?</p> <p>4 A. I believe so. To the best of my knowledge it</p> <p>5 is, yes. As of the 3rd of February, yes.</p> <p>6 Q. And when it says, "Insufficient supporting</p> <p>7 documentation," what does that mean?</p> <p>8 A. It just means that the document that the</p> <p>9 individual provided was -- was found to be -- I hate to</p> <p>10 use the same word, but insufficient in some way.</p> <p>11 Q. Is this something that would come up in the</p> <p>12 quality control check?</p> <p>13 A. Yes.</p> <p>14 Q. So it was somebody who had the supporting</p> <p>15 documentation, but for whatever reason it was found to</p> <p>16 be insufficient; is that correct?</p> <p>17 A. If it occurred during the -- the quality</p> <p>18 control check conducted by license and record service,</p> <p>19 it was based on a review of the documentation that was</p> <p>20 provided.</p> <p>21 Q. Okay. And if an individual hadn't had the</p> <p>22 documentation, hadn't had the required documentation,</p> <p>23 is it likely they wouldn't have completed an</p> <p>24 application in the first place?</p> <p>25 A. I don't know.</p>

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<p style="text-align: right;">161</p> <p>1 Q. Did DPS make any attempt to contact the</p> <p>2 individuals on this list?</p> <p>3 A. To my knowledge, no.</p> <p>4 Q. Did DPS share this list with any other</p> <p>5 agencies?</p> <p>6 A. I don't know.</p> <p>7 Q. Has any agency requested this information?</p> <p>8 A. I have not been -- no one has requested it</p> <p>9 from me. I can't answer that question. I don't know.</p> <p>10 Q. Has any agency suggested to DPS that it would</p> <p>11 be useful to follow up with individuals -- such</p> <p>12 individuals who have invalid applications?</p> <p>13 A. Not to my knowledge.</p> <p>14 (Exhibit No. 78 marked.)</p> <p>15 THE REPORTER: Exhibit 78.</p> <p>16 Q. (BY MS. MARANZANO) I'm showing you what we've</p> <p>17 marked as Exhibit 78. Do you recognize this document?</p> <p>18 A. I do.</p> <p>19 Q. What is this?</p> <p>20 A. This appears to be an application overview for</p> <p>21 election certificates dated 21 October 2013.</p> <p>22 Q. And what -- what did you say it was, an</p> <p>23 application --</p> <p>24 A. An application overview.</p> <p>25 Q. Overview. Oh, sorry. I misheard you. And</p>	<p style="text-align: right;">163</p> <p>1 application overview?</p> <p>2 A. No.</p> <p>3 Q. Who does that?</p> <p>4 A. Well, on the 21st of October it was -- it</p> <p>5 probably -- I mean, to the best of my knowledge, it was</p> <p>6 a gentleman named Ryan O'Connor.</p> <p>7 Q. And do you see -- let's see -- the number</p> <p>8 applied at the top of the first page?</p> <p>9 A. Hang on a second. This says, "Application for</p> <p>10 EIC received at an EIC station"?</p> <p>11 Q. Yes.</p> <p>12 A. Yes.</p> <p>13 Q. Is that -- are those all the applications that</p> <p>14 have been received at any office that was issuing EICs?</p> <p>15 A. Say that again, please.</p> <p>16 Q. Are -- is that -- No. 74, does that capture</p> <p>17 all of the EICs that have been issued from any of the</p> <p>18 offices that issue EICs?</p> <p>19 A. To the best of my knowledge, yes.</p> <p>20 Q. Can you look at the second page? Who decided</p> <p>21 how to put together these graphs or what information</p> <p>22 would be captured in these graphs?</p> <p>23 A. I believe Ryan did that.</p> <p>24 Q. Do you know how he made that decision?</p> <p>25 A. Well, Ryan thought that might be information</p>
<p style="text-align: right;">162</p> <p>1 what -- what is the basis for this overview, what --</p> <p>2 like what -- what do you use -- what information do you</p> <p>3 rely on when you're making an application overview?</p> <p>4 A. What information do we use to create this?</p> <p>5 That was a question. What information do we use to</p> <p>6 create this?</p> <p>7 Q. Yes.</p> <p>8 A. Okay. We have information that's entered into</p> <p>9 an Excel spreadsheet. It's currently resident on a</p> <p>10 SharePoint site --</p> <p>11 Q. Uh-huh.</p> <p>12 A. -- although I can't tell you if this was</p> <p>13 resident on the SharePoint site on the day this was</p> <p>14 created.</p> <p>15 Q. Uh-huh.</p> <p>16 A. There was -- there was a spreadsheet and the</p> <p>17 spreadsheet was used as a source document for this.</p> <p>18 Q. Okay. And the spreadsheet, is that the</p> <p>19 information -- the spreadsheet contains information</p> <p>20 from the regional offices; is that correct?</p> <p>21 A. This -- no, not now.</p> <p>22 Q. Where does it get the information from?</p> <p>23 A. The spreadsheet as it currently stands is --</p> <p>24 receives input from each CSR who is in the field.</p> <p>25 Q. Okay. I understand. Do you compile this</p>	<p style="text-align: right;">164</p> <p>1 that we could use and he offered it as a suggestion,</p> <p>2 and I said it looked fine to me.</p> <p>3 Q. Why is DPS tracking the number of applications</p> <p>4 by race?</p> <p>5 A. Well, it's in response to a number of queries.</p> <p>6 We get queries from the media and we get queries from</p> <p>7 the legislators, and sometimes they want that</p> <p>8 information. And after discussion with Ryan, what we</p> <p>9 felt was it was -- it was -- it was easier for us to</p> <p>10 depict that information on the chart that you see in</p> <p>11 front of you rather than to go back and query the</p> <p>12 database each time we get a request like that.</p> <p>13 Q. Has there been any analysis of these numbers,</p> <p>14 the number of applications by race?</p> <p>15 A. No, I'm not aware of any.</p> <p>16 Q. Did DPS do any analysis to determine whether</p> <p>17 the racial breakdown of EIC applications is consistent</p> <p>18 with the demographics of Texas?</p> <p>19 A. No, ma'am.</p> <p>20 Q. What do you do with this overview?</p> <p>21 A. We look at it. I mean, we really -- it was in</p> <p>22 there. Ryan suggested it. I thought it was a good</p> <p>23 idea. We -- we don't really -- we don't do anything</p> <p>24 with it. We look at it. We depict it. That's it.</p> <p>25 Q. In terms of this whole report, what -- what is</p>

<p style="text-align: right;">165</p> <p>1 the purpose of this -- compiling this information into</p> <p>2 an overview?</p> <p>3 A. We -- we're asked periodically to provide this</p> <p>4 information because -- because EIC is a topic that's</p> <p>5 generated interest. We found it was easier for us to</p> <p>6 go ahead, since we had the information, to -- to show</p> <p>7 it on a chart. And that if way if -- for instance, if</p> <p>8 Paul -- Deputy Assistant Director Watkins were going to</p> <p>9 a meeting, I might print this and say, "If somebody</p> <p>10 asks, here's the current status on the EICs."</p> <p>11 Q. Is it shared with -- with anybody routinely</p> <p>12 apart from special requests?</p> <p>13 A. I don't know. I mean, you would have to</p> <p>14 specify -- not -- not to my knowledge.</p> <p>15 Q. Does it -- does it get sent to DPS Director</p> <p>16 Steve McCraw?</p> <p>17 A. I never have. I don't know.</p> <p>18 Q. Does Mr. Peters see it regularly?</p> <p>19 A. Mr. Peters sees it when I print it and provide</p> <p>20 it to him. Sometimes he asks for it and sometimes he</p> <p>21 doesn't.</p> <p>22 Q. Does it get shared with any other state</p> <p>23 agencies?</p> <p>24 A. I've never shared it with another state</p> <p>25 agency. I don't know of anyone who has.</p>	<p style="text-align: right;">167</p> <p>1 A. Yes.</p> <p>2 Q. Who does this report get sent to?</p> <p>3 A. Well, it's not a report. It's a -- I mean --</p> <p>4 remember, the way I think of the reports are something</p> <p>5 that I write. So this is -- this is something that I</p> <p>6 thought that AD Peters might need. And at that time in</p> <p>7 the morning, I don't remember why I sent this one,</p> <p>8 but --</p> <p>9 Q. Is this information that's compiled regularly</p> <p>10 or was this a onetime compilation?</p> <p>11 A. By "regularly," what do you mean?</p> <p>12 Q. Have you compiled this information more than</p> <p>13 once?</p> <p>14 A. Probably, yes.</p> <p>15 Q. Do you compile it when people request it or is</p> <p>16 there another reason that you compile this information?</p> <p>17 A. We compile it when people request it or -- or</p> <p>18 if I think that -- you know, if I'm going to a meeting</p> <p>19 and I think I need it, or something along those lines.</p> <p>20 But it's not a routine weekly occurrence.</p> <p>21 Q. Can you look at the first page? There's</p> <p>22 graphs on this page, number of applications by age and</p> <p>23 number of applications by race. What are you using</p> <p>24 this information for?</p> <p>25 A. As I explained earlier, it's just the</p>
<p style="text-align: right;">166</p> <p>1 Q. Is it shared with the public?</p> <p>2 A. The -- no. No, I don't think so. No, ma'am.</p> <p>3 Q. Has this information been used to make any</p> <p>4 changes to the EIC program?</p> <p>5 A. No.</p> <p>6 Q. To the best of your knowledge, has it been</p> <p>7 used for any purpose?</p> <p>8 A. It's just -- just to tell people where we are</p> <p>9 and how many we've issued.</p> <p>10 (Exhibit No. 79 marked.)</p> <p>11 THE REPORTER: Exhibit 79.</p> <p>12 Q. (BY MS. MARANZANO) I'm showing you what we've</p> <p>13 marked as Exhibit 79 for the record. Do you recognize</p> <p>14 this?</p> <p>15 A. Yes.</p> <p>16 Q. What is this?</p> <p>17 A. This is an e-mail with an attachment that I</p> <p>18 sent to Mr. Peters on the 17th of October.</p> <p>19 Q. And what -- what is this attachment?</p> <p>20 A. The attachment -- excuse me. The attachment</p> <p>21 seems to be the tabs that we have -- that we -- that</p> <p>22 are on our spreadsheet, the number of tabs on the</p> <p>23 spreadsheet where we enter the EIC information.</p> <p>24 Q. And you're referring to the same spreadsheet</p> <p>25 that you talked about earlier?</p>	<p style="text-align: right;">168</p> <p>1 information that -- that Ryan and I discussed and we</p> <p>2 thought might be of interest. We don't use the</p> <p>3 information really for anything.</p> <p>4 Q. So would you say this information also has not</p> <p>5 been used to make any assessments of the EIC program?</p> <p>6 A. Yes, I would say that.</p> <p>7 Q. Okay. Can you turn to the fourth page where</p> <p>8 it has charts?</p> <p>9 A. Charts? Are you talking about this page?</p> <p>10 Q. That's the page --</p> <p>11 A. Thank you.</p> <p>12 Q. -- yes. And they -- you also have a list of</p> <p>13 EIC applications. I assume -- actually, why don't you</p> <p>14 tell me, what does that count represent?</p> <p>15 A. Well, it hasn't got a header on it. So what I</p> <p>16 believe it is is that that's the number of EICs that</p> <p>17 have been issued to -- to various people. We've got</p> <p>18 the counties that have been depicted from Anderson to</p> <p>19 Zavala, we've got ages, we've got other demographics.</p> <p>20 Q. And has the information on this page been used</p> <p>21 to make any assessments of the EIC program?</p> <p>22 A. No. Not to my knowledge, no.</p> <p>23 Q. Can you turn to the next page, which is a</p> <p>24 chart of individuals' names. What does this page</p> <p>25 represent?</p>

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<p style="text-align: right;">169</p> <p>1 A. This page represents the number of EIC 2 applications. It's -- it's an actuality. It's more of 3 a status chart for internal use. 4 Q. What does the highlighting mean on this page? 5 A. Which color? 6 Q. Well, could you tell me what the yellow 7 highlighting means? 8 A. Yes. Well, the -- on the very top one it 9 says, "LRS Validated." 10 Q. Uh-huh. 11 A. That's the process that I described earlier 12 where with the license and records service -- 13 Q. Uh-huh. 14 A. -- conducts the QA/QC. And then -- and then 15 orange directly below that on Line 10, that's a not 16 valid. That just means that we didn't issue that -- 17 that driver correction, that -- that EIC. And the 18 yellow and the question mark under the "Type of 19 Station" on Line 29, that's just a question mark. It's 20 information that we just don't have. And for some 21 reason we weren't able to get it. 22 Q. So for those individuals who have the yellow 23 highlighted question mark, those are individuals where 24 DPS is unaware of the type of station that they 25 received the EIC from?</p>	<p style="text-align: right;">171</p> <p>1 Q. Do you see that it's not the same highlighting 2 as what we looked at previously? 3 A. Well, it's yellow. I don't know why they -- 4 they highlighted the application count column. I don't 5 know why they did that. 6 Q. The application count column is for only 7 certain individuals, correct? 8 A. Yes. I don't know why they did that. 9 Q. Is this -- is this chart -- or this group of 10 charts and tables shared with any other state agencies? 11 A. Not to my knowledge. I've never done it. 12 Nobody has asked me to. 13 Q. And is any of this information included in any 14 of these charts or tables used to evaluate the EIC 15 program? 16 A. No, ma'am. 17 MS. MARANZANO: Can we -- can we go off 18 the record for one moment? 19 MR. KEISTER: Sure. 20 (Discussion off the record.) 21 MS. MARANZANO: Let me have this marked. 22 (Exhibit No. 80 marked.) 23 THE REPORTER: Exhibit 80. 24 THE WITNESS: Do you want to give her my 25 stuff?</p>
<p style="text-align: right;">170</p> <p>1 A. That's right. 2 Q. And on the -- if you could flip two more 3 pages, there's another list. Is this list the same 4 as -- is this the same as that we were just looking at? 5 A. Well, it looks like it has some of the same 6 data on it, but the -- the list with the -- the orange 7 highlighting -- not that one, but the other one that we 8 had talked about previously. 9 Q. The list we were just talking about -- 10 A. Yes. 11 Q. -- and the list we were looking out now have 12 some of the -- 13 A. It has some of the same information on it. 14 What -- what this appears to be, the first list, is it 15 appears to be a tracking chart so we can see where the 16 EIC is in the process in case anybody has asked. And 17 then what this list -- the shaded list that you're 18 looking at right now, what that appears to be is that 19 just appears to be the entry on the spreadsheet for the 20 customer that came to the office. 21 Q. And what -- what does the highlighting on this 22 second list mean? 23 A. The yellow highlighting? 24 Q. Yes. 25 A. I don't know.</p>	<p style="text-align: right;">172</p> <p>1 MR. KEISTER: You may need your tables or 2 your statutes. 3 MS. MARANZANO: Thank you. 4 MR. KEISTER: All right. 5 Q. (BY MS. MARANZANO) Okay. I am showing you 6 what we have marked as Exhibit 80. 7 A. Yes. 8 Q. Can you tell me what this is? 9 A. Yes. This is what we refer to as our EIC 10 dashboard. And by way of clarification, we have talked 11 about the way that we track EICs. And initially there 12 was a report. We referred to it as a push document, 13 push it out. This is the final evolution or the 14 current evolution, I suppose I should say, for how we 15 track our election certificates. 16 Q. Okay. And this is compiled from those reports 17 that you get that you push out; is that correct? 18 A. No. 19 Q. Can you repeat what you just said then? 20 A. Yes. I'll try. This is what we call the 21 EIC dashboard, and this is the -- the current evolution 22 of how we track election certificates. 23 Q. How frequently do you put together this 24 dashboard? 25 A. In order to answer that question I have to --</p>

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<p style="text-align: right;">173</p> <p>1 I have to do some explaining.</p> <p>2 Q. Okay.</p> <p>3 A. I mentioned that there's a SharePoint site.</p> <p>4 Q. Uh-huh.</p> <p>5 A. Okay. And our customer service</p> <p>6 representatives have access to the SharePoint site, and</p> <p>7 they enter -- on the SharePoint site they enter the</p> <p>8 application data for customers that come to the office.</p> <p>9 And once they update it there's a series of menus and</p> <p>10 they go through their pull-down menus. And then</p> <p>11 they -- they post it or they, you know, submit it. And</p> <p>12 then that information updates a spreadsheet which is</p> <p>13 kept on the SharePoint site, and from that spreadsheet</p> <p>14 we derive this chart.</p> <p>15 Q. Okay.</p> <p>16 A. So it's not updated in the same manner as the</p> <p>17 daily or the weekly reports that I would produce and</p> <p>18 send. This is -- this document can be -- or is updated</p> <p>19 or carries, I suppose is the best way to put it, near</p> <p>20 realtime information. So if you go to an office in Bee</p> <p>21 County, you get your EIC, the CSR puts it in there, and</p> <p>22 it's updated.</p> <p>23 Q. Who can access that information?</p> <p>24 A. Any DPS employee and driver license division</p> <p>25 has access to it in order to be able to update the</p>	<p style="text-align: right;">175</p> <p>1 so there's an element of, "Well, we had done it that</p> <p>2 way before, so we're going to include it this way now."</p> <p>3 And that's why the windows that you see are included in</p> <p>4 here.</p> <p>5 And -- and it also -- it's in response to</p> <p>6 some -- sometimes we get media queries of how many</p> <p>7 issues or how many applicants we had. And rather than</p> <p>8 answer the question several times a day, it was just</p> <p>9 easier for us to give Tom Vinger, or whoever was</p> <p>10 answering the question, the link and allow them to view</p> <p>11 it themselves.</p> <p>12 Q. When -- when is this -- the information that's</p> <p>13 on this dashboard that we're looking at, when is this</p> <p>14 current as of?</p> <p>15 A. If you remember the answer to my previous</p> <p>16 question that I gave you.</p> <p>17 Q. Uh-huh.</p> <p>18 A. So when -- it's current as of the time that</p> <p>19 you print it. Okay? But the information on the -- on</p> <p>20 the spreadsheet, or whatever it is, is updated as soon</p> <p>21 as the CSR updates the share point site.</p> <p>22 Q. So I guess what I'm asking is, when was this</p> <p>23 printed?</p> <p>24 A. I don't know. It's whenever they printed it.</p> <p>25 It's -- it doesn't say as of -- hang on a second. It</p>
<p style="text-align: right;">174</p> <p>1 source document.</p> <p>2 Q. And who at DPS headquarters can access that</p> <p>3 information?</p> <p>4 A. When you say "access the information," are you</p> <p>5 referring to the charts or are you referring to the</p> <p>6 underlying spreadsheet that's the source document for</p> <p>7 the chart?</p> <p>8 Q. The underlying spreadsheet.</p> <p>9 A. We have that restricted. I -- I can't give</p> <p>10 you an exhaustive list of who it's restricted to. And</p> <p>11 the CSRs don't update the spreadsheet; they update the</p> <p>12 SharePoint site, which updates the spreadsheet. Okay?</p> <p>13 So I can look at the spreadsheet and a few people can</p> <p>14 look at the spreadsheet, but we can access the</p> <p>15 dashboard to print it for ourselves.</p> <p>16 Q. Do you circulate the dashboard to anybody?</p> <p>17 A. No. No, we don't. If somebody wants it and</p> <p>18 they have access to the site, then they can -- they can</p> <p>19 print their own. It's -- it's on the other side of the</p> <p>20 DPS firewall, so only DPS personnel who have access</p> <p>21 would be able to access the SharePoint site.</p> <p>22 Q. Who decided what information to include in the</p> <p>23 dashboard?</p> <p>24 A. You have to understand that the -- this EIC</p> <p>25 dashboard is an evolution of all the previous products,</p>	<p style="text-align: right;">176</p> <p>1 might say it somewhere. I don't know.</p> <p>2 Q. What's done with -- with this information?</p> <p>3 A. The same -- the same that we did with the --</p> <p>4 with the other information. We had talked about we</p> <p>5 look at it. If -- if somebody has a question, then we</p> <p>6 provide them the information from it.</p> <p>7 Q. Do you circulate this EIC dashboard in sort</p> <p>8 of -- as we're looking at it, something like this? Not</p> <p>9 the spreadsheet, but this compilation of the EIC</p> <p>10 dashboard to any other state agencies?</p> <p>11 A. No.</p> <p>12 Q. Do you circulate any form of that, of the</p> <p>13 information that goes into this EIC dashboard to other</p> <p>14 state agencies?</p> <p>15 A. No, ma'am, not to my knowledge.</p> <p>16 Q. Do you use this EIC dashboard to evaluate your</p> <p>17 EIC program?</p> <p>18 A. No, ma'am.</p> <p>19 Q. So you're collecting this information just in</p> <p>20 case people ask for it?</p> <p>21 A. That's essentially it.</p> <p>22 Q. Has -- other than the press, have individuals</p> <p>23 asked questions about information that's contained in</p> <p>24 this EIC dashboard?</p> <p>25 A. Sometimes we get questions from legislators,</p>

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<p style="text-align: right;">177</p> <p>1 and based on -- depending on what they ask, you can use</p> <p>2 this to answer their questions. But we -- to my</p> <p>3 knowledge, we've never provided this to a legislator.</p> <p>4 Q. So this is an internal document that DPS uses</p> <p>5 to answer questions, but DPS doesn't share this</p> <p>6 document with others?</p> <p>7 A. No, ma'am, not to my knowledge.</p> <p>8 Q. Have legislators asked you for information</p> <p>9 that's contained in here?</p> <p>10 A. On occasion, yes.</p> <p>11 Q. Do you know which ones?</p> <p>12 A. I -- I don't recall any right now off the top</p> <p>13 of my head, no.</p> <p>14 Q. Is there -- was there any discussion of the</p> <p>15 different information to categorize in this report?</p> <p>16 A. I'm sure that we -- or I know that we talked</p> <p>17 about some of the information.</p> <p>18 Q. Do you know why you decided to do this graph</p> <p>19 with the numbers -- and I'm looking on the --</p> <p>20 A. I see it.</p> <p>21 Q. -- fourth page --</p> <p>22 A. Yes.</p> <p>23 Q. -- the number of applicants by race.</p> <p>24 A. No, that was -- that goes back to the</p> <p>25 statement that I had made where it was something that</p>	<p style="text-align: right;">179</p> <p>1 Q. Do you have any awareness of that?</p> <p>2 A. No.</p> <p>3 Q. Do you have any knowledge of why this</p> <p>4 affidavit is not used?</p> <p>5 A. Well, we -- we asked for -- we asked for birth</p> <p>6 certificates. I'm not sure what this would do for</p> <p>7 anybody.</p> <p>8 Q. Did you testify earlier that an individual who</p> <p>9 didn't have a birth certificate could provide other</p> <p>10 documentation, such as a -- well, you mentioned an</p> <p>11 affidavit of somebody who was at their birth; is that</p> <p>12 correct?</p> <p>13 A. That's correct, but I think that I really</p> <p>14 should have highlighted at that point in time that the</p> <p>15 people who fall into that category are customers.</p> <p>16 That's a very small number of people like that, and --</p> <p>17 and so it's not something that we accept as a matter of</p> <p>18 course or routine. There are provisions, to answer</p> <p>19 your question.</p> <p>20 If somebody was born and they didn't have</p> <p>21 a birth certificate, they could, but I personally have</p> <p>22 never dealt with it. I was instructed that that was</p> <p>23 something that we could accept, but I've never dealt</p> <p>24 with that in my time in DPS. And, to my knowledge,</p> <p>25 none of my subordinates have ever had to deal with that</p>
<p style="text-align: right;">178</p> <p>1 we had collected, and we continued just to collect it.</p> <p>2 When you make a spreadsheet and you create the tables</p> <p>3 from the spreadsheet, sometime it's easier just to keep</p> <p>4 them, and we just hung onto them.</p> <p>5 Q. Do you why you have that graph of the number</p> <p>6 of applicants by age group?</p> <p>7 A. No, that was just something we included.</p> <p>8 Q. Okay. I want to circle back to something that</p> <p>9 we talked about earlier.</p> <p>10 (Exhibit No. 81 marked.)</p> <p>11 THE REPORTER: Exhibit 81.</p> <p>12 Q. (BY MS. MARANZANO) Does this look familiar to</p> <p>13 you?</p> <p>14 A. It's a birth certificate affidavit. We don't</p> <p>15 use it.</p> <p>16 Q. Have you seen this before?</p> <p>17 A. Yes.</p> <p>18 Q. When was that?</p> <p>19 A. It was during our prep. I'm sorry.</p> <p>20 MR. KEISTER: Beyond that.</p> <p>21 Q. (BY MS. MARANZANO) Apart from any</p> <p>22 conversations you had with counsel, did DPS at some</p> <p>23 time consider using this affidavit instead of requiring</p> <p>24 an individual to present a birth certificate?</p> <p>25 A. They must have, yes.</p>	<p style="text-align: right;">180</p> <p>1 kind of an affidavit.</p> <p>2 Q. And are -- you're saying it's a small number</p> <p>3 of people who have never received a birth certificate?</p> <p>4 Is that what you're saying?</p> <p>5 A. I'm saying that there a small number of people</p> <p>6 who come to our office who -- who don't have a birth</p> <p>7 certificate.</p> <p>8 Q. So your knowledge is based on what?</p> <p>9 A. My knowledge of that?</p> <p>10 Q. Uh-huh.</p> <p>11 A. It's -- it's anecdotal and personal knowledge.</p> <p>12 Q. What problems would there be in using this</p> <p>13 affidavit in place of a birth certificate?</p> <p>14 A. Well, you're asking an individual to say that</p> <p>15 they are who they say they are independently.</p> <p>16 Q. And why is that a problem?</p> <p>17 A. Well, they may not be who they say they are.</p> <p>18 Q. So --</p> <p>19 A. It's not -- it's not something that we can</p> <p>20 compare to anything. And there's -- there's no way for</p> <p>21 us to connect the dots that I talked about before in</p> <p>22 order to determine that the person who fills out the</p> <p>23 application is actually who they say they are.</p> <p>24 Q. And is it the case that this person would be</p> <p>25 signing this certification essentially under oath that</p>

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<p style="text-align: right;">181</p> <p>1 they are who they say they are, correct?</p> <p>2 A. That's what it looks like, yes.</p> <p>3 Q. DPS determined that that was insufficient?</p> <p>4 A. I -- yes.</p> <p>5 Q. You were not a part of that determination?</p> <p>6 A. I was not part of that decision.</p> <p>7 Q. But is it the case that DPS uses this</p> <p>8 affidavit now or would accept this affidavit?</p> <p>9 A. We do not use that document.</p> <p>10 Q. Did DPS consider a rule at any point that</p> <p>11 would have allowed individuals to obtain an EIC without</p> <p>12 bringing a birth certificate to the office, but</p> <p>13 allowing DPS to connect to the Department of Vital</p> <p>14 Statistics to access the birth records?</p> <p>15 A. Not to my knowledge.</p> <p>16 Q. You're not aware of any discussion of such a</p> <p>17 possibility?</p> <p>18 A. No.</p> <p>19 Q. Would there be any technical impediment to</p> <p>20 doing that?</p> <p>21 A. I -- I don't know. I'm not -- I'm not a</p> <p>22 technical person. I don't know how those things would</p> <p>23 work.</p> <p>24 Q. Are you aware of any other impediment that</p> <p>25 would have existed to doing that?</p>	<p style="text-align: right;">183</p> <p>1 descriptions?</p> <p>2 A. No.</p> <p>3 Q. Does it use this at all for training</p> <p>4 employees?</p> <p>5 A. No.</p> <p>6 Q. Does it use this at all for any sort of</p> <p>7 outreach or education?</p> <p>8 A. No.</p> <p>9 Q. Where is this information kept, in a database?</p> <p>10 A. There's not a database. It's information</p> <p>11 that's derived from the applications. It's on the</p> <p>12 same -- it's on the same spreadsheet. So the CSR -- if</p> <p>13 you remember, I explained to you earlier, a customer</p> <p>14 comes in for an issuance, the CSR accesses the</p> <p>15 SharePoint site. He enters the information relevant to</p> <p>16 an issuance. Well, there's also a way to enter</p> <p>17 information relevant to an issue, yes.</p> <p>18 Q. Am I correct that when we looked at the weekly</p> <p>19 reports earlier some of those reports had inquiries</p> <p>20 without anybody's names listed?</p> <p>21 A. I would have to go back, but I believe you're</p> <p>22 correct.</p> <p>23 Q. So what distinguishes an inquiry where a DPS</p> <p>24 employee takes down the name?</p> <p>25 A. Just that the DPS employee had -- had the</p>
<p style="text-align: right;">182</p> <p>1 A. No.</p> <p>2 Q. Okay.</p> <p>3 (Exhibit No. 82 marked.)</p> <p>4 THE REPORTER: Exhibit 82.</p> <p>5 Q. (BY MS. MARANZANO) Okay. I'm showing you</p> <p>6 what we have marked as Exhibit 82 for the record. Do</p> <p>7 you recognize this?</p> <p>8 A. I do.</p> <p>9 Q. What is this?</p> <p>10 A. This appears to be information that we derived</p> <p>11 from our database, and it is a list of inquiries.</p> <p>12 Q. And when is this current as of?</p> <p>13 A. It's current as of whenever it was printed,</p> <p>14 but that's not depicted on the document. It's whenever</p> <p>15 they printed it.</p> <p>16 Q. What's done with this list?</p> <p>17 A. Well, other than bringing it here for you,</p> <p>18 nothing. We look at it, but that's it.</p> <p>19 Q. Does DPS do any follow-up with any of these</p> <p>20 individuals?</p> <p>21 A. Not to my knowledge, no.</p> <p>22 Q. To your knowledge, it hasn't done any</p> <p>23 follow-up with anybody on that list?</p> <p>24 A. To my knowledge, no.</p> <p>25 Q. Does it do any sort of analysis of the inquiry</p>	<p style="text-align: right;">184</p> <p>1 customer's name.</p> <p>2 Q. So this -- this list of inquiries, which is</p> <p>3 current as of some date -- we're not sure when --</p> <p>4 wouldn't actually capture every inquiry that occurred.</p> <p>5 Is that true?</p> <p>6 A. What this appears to be are the inquiries for</p> <p>7 2014.</p> <p>8 Q. Uh-huh. But is it the inquiries where you had</p> <p>9 the name -- the customer's name?</p> <p>10 A. It's not -- it's not only -- if you look at</p> <p>11 the second inquiry --</p> <p>12 Q. Uh-huh.</p> <p>13 A. -- it just says, "Customer had valid Texas ID</p> <p>14 in 1981," but we didn't capture the customer's name.</p> <p>15 Q. That's not Annabelle --</p> <p>16 A. No. Modified -- modified by the DPS employee</p> <p>17 who entered that information.</p> <p>18 Q. I see, uh-huh. So this is every inquiry that</p> <p>19 was captured in a weekly report by -- or captured by a</p> <p>20 DPS employee?</p> <p>21 A. No. This is -- this is -- these are the</p> <p>22 inquiries that were captured in -- and these are -- I</p> <p>23 don't know how exhaustive it is. These appear to be</p> <p>24 the inquiries that were captured for 2014. We don't do</p> <p>25 weekly reports anymore.</p>

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<p style="text-align: right;">185</p> <p>1 Q. Okay. And if somebody walks into a driver's</p> <p>2 license office and just asks a couple of casual</p> <p>3 questions, does that give -- about an EIC, would that</p> <p>4 be reported in an inquiry?</p> <p>5 A. It's supposed to be.</p> <p>6 Q. Are you confident that it is?</p> <p>7 A. Yes. I mean, within the scope of what we</p> <p>8 talked about, there are errors for human -- human</p> <p>9 errors. If the -- the CSR is distracted by something</p> <p>10 else or some other incident occurs in the office, that</p> <p>11 might not be entered into the database. But I'm</p> <p>12 confident as a general rule that that's entered in</p> <p>13 there.</p> <p>14 Q. Can you take a look at --</p> <p>15 THE REPORTER: Hold on just a second.</p> <p>16 I'm trying not to cover up something.</p> <p>17 Q. (BY MS. MARANZANO) I'm showing you what's</p> <p>18 been marked for the record --</p> <p>19 THE REPORTER: Exhibit 83.</p> <p>20 Q. (BY MS. MARANZANO) -- as Exhibit 83. Do you</p> <p>21 recognize this document?</p> <p>22 A. It's a good thing that I wear trifocals, yes.</p> <p>23 Q. And what is this?</p> <p>24 A. This is a printout of -- I can't tell you if</p> <p>25 it's the entire spreadsheet that we use or a portion of</p>	<p style="text-align: right;">187</p> <p>1 Q. You haven't used this chart for any -- or the</p> <p>2 information contained in the chart for any assessments</p> <p>3 of the EIC program?</p> <p>4 A. No.</p> <p>5 Q. Would you consider the EIC program to be a</p> <p>6 success?</p> <p>7 A. You're asking me to provide you with my</p> <p>8 opinion?</p> <p>9 Q. Yes.</p> <p>10 A. In my opinion, it's been a success, yes.</p> <p>11 Q. And what are you basing that on?</p> <p>12 A. I'm basing that on the fact that we were able</p> <p>13 to provide the opportunity for Texans in all</p> <p>14 254 counties to get an EIC.</p> <p>15 Q. Is accessibility of places to obtain an EIC a</p> <p>16 factor in determining whether the program is a success?</p> <p>17 A. I don't understand what kind of accessibility</p> <p>18 you're talking about.</p> <p>19 Q. Is the number of places issuing EICs a factor</p> <p>20 in determining whether the program is a success?</p> <p>21 A. The number in and of itself?</p> <p>22 Q. Uh-huh.</p> <p>23 A. No, I don't believe so.</p> <p>24 Q. Is the number of EICs issued a factor in</p> <p>25 determining whether it's a success?</p>
<p style="text-align: right;">186</p> <p>1 it, but it appears to be a printout of -- of the</p> <p>2 spreadsheet where we keep all of the EIC issuance</p> <p>3 information.</p> <p>4 Q. And can you tell me when this is current as</p> <p>5 of?</p> <p>6 A. It's -- no, it's the same -- it's the same</p> <p>7 answer for the other documents, and I don't know. I</p> <p>8 can't tell from looking at it.</p> <p>9 MR. KEISTER: Counsel, just if you want</p> <p>10 to know, all these were printed Tuesday, so -- on that</p> <p>11 day. So they're current this week or whatever.</p> <p>12 MS. MARANZANO: Okay. Thank you for that</p> <p>13 clarification.</p> <p>14 MR. KEISTER: I think it was Monday; it</p> <p>15 could have been Tuesday.</p> <p>16 THE WITNESS: Don't get me to start</p> <p>17 saying anything.</p> <p>18 Q. (BY MS. MARANZANO) Have you used this chart</p> <p>19 for any -- anything related to the EIC program?</p> <p>20 A. This chart?</p> <p>21 Q. Yes.</p> <p>22 A. No, ma'am.</p> <p>23 Q. Have you focused any outreach efforts or any</p> <p>24 staffing efforts where more EICs are issued?</p> <p>25 A. No, ma'am.</p>	<p style="text-align: right;">188</p> <p>1 A. No, I don't believe so.</p> <p>2 Q. Have you received any complaints from DPS</p> <p>3 employees about the EIC program?</p> <p>4 A. I have not, no.</p> <p>5 Q. Now that you've been sort of overseeing --</p> <p>6 A. Tenderized?</p> <p>7 Q. -- the EIC program for about a year, how --</p> <p>8 how would you say you find the additional</p> <p>9 responsibility in terms of your workload?</p> <p>10 A. Well, it's -- it's cyclic and the hours that I</p> <p>11 put in at DPS aren't much different. In many ways</p> <p>12 they're easier than the hours that I've put in working</p> <p>13 at other places.</p> <p>14 Q. Has it impacted your ability to deal with</p> <p>15 other responsibilities that you have at DPS?</p> <p>16 A. That's a discussion you have to have with my</p> <p>17 boss.</p> <p>18 Q. Fair enough. Okay.</p> <p>19 MS. MARANZANO: At this time I will pass</p> <p>20 the witness.</p> <p>21 THE WITNESS: Okay.</p> <p>22 MS. MARANZANO: Thank you.</p> <p>23 THE WITNESS: Thank you. Can I get a</p> <p>24 break?</p> <p>25 MR. KEISTER: Yeah.</p>

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<p style="text-align: right;">189</p> <p>1 (Recess from 2:01 p.m. to 2:13 p.m.)</p> <p>2 THE REPORTER: On the record.</p> <p>3 EXAMINATION</p> <p>4 BY MR. BRAZIL:</p> <p>5 Q. Good afternoon.</p> <p>6 A. Hi.</p> <p>7 Q. I just want to follow-up on a few areas that</p> <p>8 you touched on in earlier testimony. You talked about</p> <p>9 the equipment of the mobile EIC stations or units. Do</p> <p>10 you recall that?</p> <p>11 A. I do.</p> <p>12 Q. Okay. Can you describe what equipment exactly</p> <p>13 makes up one of the mobile units?</p> <p>14 A. I don't know if I can do it exactly.</p> <p>15 Q. Sure.</p> <p>16 A. I'll give you the best I can. So a mobile</p> <p>17 unit will consist of a laptop computer, a printer,</p> <p>18 There's a number of forms -- DPS forms necessary to</p> <p>19 issue EICs. There will be a ream of paper. There's a</p> <p>20 tripod, a camera, a digital camera. The connections,</p> <p>21 the cables, and that stuff that makes all that business</p> <p>22 work. There's a -- there's a blue screen that we -- we</p> <p>23 use as a backdrop for the photographs that we take.</p> <p>24 There's a tripod for that or some kind of a stand. I</p> <p>25 don't know if it's a tripod or not. There's the tubs</p>	<p style="text-align: right;">191</p> <p>1 one to do -- to use -- it's called bench testing. So</p> <p>2 they -- our tech people are, you know, running tests on</p> <p>3 it to make sure that the applications work properly,</p> <p>4 and that would be called what's called the bench test</p> <p>5 unit. There's somewhere around 80 of those.</p> <p>6 Q. When you say 80, you're talking about the</p> <p>7 county mobile units?</p> <p>8 A. Yes.</p> <p>9 Q. And how do you distinguish between a DPS</p> <p>10 mobile unit and a county mobile unit?</p> <p>11 A. The only distinction -- in reality, the only</p> <p>12 distinction is the inclusion of the cell phone that I</p> <p>13 mentioned earlier.</p> <p>14 Q. That's the only difference?</p> <p>15 A. To the best of my recollection, yes, sir.</p> <p>16 Q. And of the approximately 80 county units, are</p> <p>17 those permanent? I mean, are they given to the county</p> <p>18 permanently or are they retrieved by DPS after the</p> <p>19 county has finished using them?</p> <p>20 A. The 80 units or so that that were provided to</p> <p>21 the counties, the counties don't own them. The State</p> <p>22 of Texas owns them. And I don't -- I don't recall if</p> <p>23 Secretary of State actually paid for them or DPS did.</p> <p>24 That part I don't know. But those units are provided</p> <p>25 to the county. The county inventories them and they</p>
<p style="text-align: right;">190</p> <p>1 to put it in. And -- and depending whether it is a</p> <p>2 county EIC unit or a DPS EIC unit, it will have a cell</p> <p>3 phone. If it's a DPS EIC unit, it will have a DPS</p> <p>4 issued cell phone with phone numbers entered into for</p> <p>5 the ease of the CSRs. I can't recall if we still give</p> <p>6 the -- the CSRs a dolly to carry -- there were</p> <p>7 complaints about that. They didn't like our dollies</p> <p>8 because the boxes were light. And if there's a dolly,</p> <p>9 then there's going to be bungee cords. So, to the best</p> <p>10 of my knowledge, that's an EIC mobile unit.</p> <p>11 Q. The laptop, is it connected to any DPS</p> <p>12 databank --</p> <p>13 A. No, sir.</p> <p>14 Q. -- remotely?</p> <p>15 A. No, sir.</p> <p>16 Q. So it's a standalone laptop?</p> <p>17 A. The laptop has been configured by our IT</p> <p>18 people so that it is not able to connect to anything.</p> <p>19 Q. Okay. And how many of those mobile units were</p> <p>20 established by DPS, approximately?</p> <p>21 A. So, to the best of my knowledge, the Phase 2</p> <p>22 EICs -- EIC mobile units were -- there were 25 of them.</p> <p>23 And the Phase 3, which are the county EIC units, I</p> <p>24 can't remember if there were 78 or 79 of them. There</p> <p>25 were somewhere around 80. I can't remember if we kept</p>	<p style="text-align: right;">192</p> <p>1 are responsible for them.</p> <p>2 Q. So they keep the units as long as they need</p> <p>3 them?</p> <p>4 A. They maintain the units, yes, sir.</p> <p>5 Q. Okay. Are they charged any fee, rental or</p> <p>6 otherwise, by DPS or the Secretary of State's office</p> <p>7 for these mobile units?</p> <p>8 A. No, sir. We even provide toner cartridges if</p> <p>9 they need them.</p> <p>10 Q. Do you know what the approximate cost of each</p> <p>11 unit was to the State?</p> <p>12 A. I knew at one time. I don't know now. I</p> <p>13 don't recall the cost of the unit.</p> <p>14 Q. Do you have a range, like \$5,000 to \$10,000</p> <p>15 or --</p> <p>16 A. I couldn't even speculate because there were</p> <p>17 all kinds of peripherals. I don't know.</p> <p>18 Q. What about the total of cost of all,</p> <p>19 approximately, 105 mobile units?</p> <p>20 A. No, sir, I don't know.</p> <p>21 Q. Did some of the counties already have some of</p> <p>22 the equipment that they could use as part of the mobile</p> <p>23 units? For example, paper, printer, laptop, things</p> <p>24 like that?</p> <p>25 A. No.</p>

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<p style="text-align: right;">193</p> <p>1 Q. I'm sorry?</p> <p>2 A. No.</p> <p>3 Q. And the 80 -- approximately 80 county units,</p> <p>4 were those given to certain counties or were they given</p> <p>5 to counties that requested them or how did that work?</p> <p>6 How did you determine -- or how did DPS determine who</p> <p>7 got the 80 mobile units?</p> <p>8 A. DPS reached out to the counties that do not</p> <p>9 have driver license offices. There are 78 counties</p> <p>10 that do not have driver license offices in the state.</p> <p>11 And there was a letter -- I can't recall if A.D. Peters</p> <p>12 signed it or not, but that letter established that I</p> <p>13 was the point of contact and that letter went out to --</p> <p>14 to the counties. I can't recall exactly who -- I can't</p> <p>15 remember if it was the county commissioners or the</p> <p>16 county judge, but it went to -- it went to a county</p> <p>17 official to make them aware of -- of the availability</p> <p>18 of these the units.</p> <p>19 Q. Did all of the counties that did not have a</p> <p>20 driver's license office accept one of the mobile units?</p> <p>21 A. No, sir.</p> <p>22 Q. So did some of the counties take more than</p> <p>23 one?</p> <p>24 A. No, sir.</p> <p>25 Q. Okay. So some of these 80 units went to</p>	<p style="text-align: right;">195</p> <p>1 kept separately.</p> <p>2 Q. Okay. So -- but the overall driver's license</p> <p>3 database has within it EIC information?</p> <p>4 A. That's -- that's not an accurate statement.</p> <p>5 Q. Okay. I didn't think it was. I was asking</p> <p>6 you to explain it to me. I didn't understand it</p> <p>7 earlier.</p> <p>8 A. Yes, sir, I'll try. When -- when the system</p> <p>9 was -- when the driver license system that we use for</p> <p>10 our offices was configured and EIC was added into it,</p> <p>11 the information in that was placed -- it's maintained</p> <p>12 in a separate database. It's not accessible -- the</p> <p>13 document in that database are not accessible to driver</p> <p>14 license personnel unless they have special access to</p> <p>15 that.</p> <p>16 Q. Okay. That explains it. Now, what about the</p> <p>17 CHL, is that a separate database?</p> <p>18 A. Yes, sir. And it's separate and distinct from</p> <p>19 driver license. It's maintained by another -- another</p> <p>20 department in -- in DPS.</p> <p>21 Q. What department maintains the CHL database?</p> <p>22 A. To the best of my knowledge, it's called RSD.</p> <p>23 It's Regulatory Services Division.</p> <p>24 Q. Okay. Does -- now, we know the EIC forms have</p> <p>25 a box or category for race, correct?</p>
<p style="text-align: right;">194</p> <p>1 counties that had a driver's license office?</p> <p>2 A. No, sir.</p> <p>3 Q. So what happened to the other --</p> <p>4 A. DPS maintains the control of those units.</p> <p>5 Q. And they're available if a county asks for</p> <p>6 them today?</p> <p>7 A. If a county were to ask for them and the</p> <p>8 county didn't have a driver license office and the</p> <p>9 county returned a memorandum of understanding signed by</p> <p>10 the county judge and they participated in the training</p> <p>11 to operate the unit, then we would provide the mobile</p> <p>12 unit to the county.</p> <p>13 Q. How many counties that did not have a driver's</p> <p>14 license office not accept the training and not accept</p> <p>15 one of the mobile units?</p> <p>16 A. I would have to refer to one of our -- one of</p> <p>17 our charts. The number is -- is relatively small. I</p> <p>18 believe, to the best of my recollection, it's 17.</p> <p>19 Q. 17, approximately?</p> <p>20 A. Approximately, yes, sir.</p> <p>21 Q. You also spoke earlier about the EIC database</p> <p>22 is kept separate from the driver's license database?</p> <p>23 A. So within the driver license system, okay,</p> <p>24 that we use when we're issuing driver licenses or ID</p> <p>25 cards, the EIC database, it's a separate tab and that's</p>	<p style="text-align: right;">196</p> <p>1 A. Yes.</p> <p>2 Q. Okay. What about the driver's license</p> <p>3 database and those forms, is there a place for someone</p> <p>4 to designate their race?</p> <p>5 A. Yes.</p> <p>6 Q. And what about the CHL?</p> <p>7 A. I don't recall.</p> <p>8 Q. Can you search the driver's license database</p> <p>9 by race?</p> <p>10 A. I don't know.</p> <p>11 Q. What about the EIC?</p> <p>12 A. I don't think so, no, sir. I don't know that</p> <p>13 either.</p> <p>14 Q. So the form -- even though the form on the EIC</p> <p>15 has a box for race, is that not inputted into the</p> <p>16 database?</p> <p>17 A. Yes.</p> <p>18 Q. It is?</p> <p>19 A. Yes, but I don't know -- I don't know the</p> <p>20 searchability of the database.</p> <p>21 Q. Fair enough. It is inputted, though?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. That's all I have. Thank you.</p> <p>24 A. Thank you.</p> <p>25 MS. KORGAONKAR: Before I start, could</p>

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<p style="text-align: right;">197</p> <p>1 you just let me know how much time we have.</p> <p>2 THE REPORTER: Off the record.</p> <p>3 (Discussion off the record.)</p> <p>4 THE REPORTER: Back on the record.</p> <p>5 EXAMINATION</p> <p>6 BY MS. KORGAONKAR:</p> <p>7 Q. Good afternoon, Mr. Rodriguez. I understand</p> <p>8 it's late in the day and you're probably a little bit</p> <p>9 tired.</p> <p>10 A. Not at all.</p> <p>11 Q. So my name is Natasha Korgaonkar, just to</p> <p>12 reintroduce myself, from the NAACP Legal Defense Fund.</p> <p>13 In this case, I represent the Texas League of Young</p> <p>14 Voters and two individual plaintiffs, Imani Clark and</p> <p>15 Michelle Bessiack.</p> <p>16 So Ms. Maranzano has been asking you, and</p> <p>17 Mr. Brazil as well, a series of questions. I'm going</p> <p>18 to continue that series of questions on a slightly</p> <p>19 different topic. It's Topics 3 and 4 from the notice,</p> <p>20 which you testified earlier today that you were</p> <p>21 prepared for. I just want to remind you that you're</p> <p>22 still under oath and you're required to answer all of</p> <p>23 the questions as truthfully and completely as you were</p> <p>24 this morning, okay?</p> <p>25 A. That's fine.</p>	<p style="text-align: right;">199</p> <p>1 DPS Regions 3, 4, 5, 6A and 6B, and this is all of the</p> <p>2 DPS Regions 1 through 6B.</p> <p>3 Q. Okay. So these include regions that your</p> <p>4 colleague, Mr. Bell, also supervises; is that right?</p> <p>5 A. Yes, ma'am.</p> <p>6 Q. Okay. And could you just read the first</p> <p>7 sentence of this e-mail?</p> <p>8 A. Sure. "Folks, EICs are becoming a big deal</p> <p>9 now and the information requirements are tightening</p> <p>10 up."</p> <p>11 Q. Okay. So what did you mean when you said that</p> <p>12 EICs were becoming a big deal?</p> <p>13 A. It means that -- that people were asking about</p> <p>14 them and the quality of information that I was getting</p> <p>15 needed to be increased. And that's why, if you look</p> <p>16 further down in the e-mail, I'm asking for additional</p> <p>17 information, specifically the date, the office name and</p> <p>18 the station number, and a narrative for each of the</p> <p>19 issuances. And I sent this because -- because we were</p> <p>20 getting different information from different regions.</p> <p>21 Q. And who was asking for the information that</p> <p>22 you're now requesting?</p> <p>23 A. Me.</p> <p>24 Q. Aside from you, was there anyone else?</p> <p>25 A. No. I collected the information and I</p>
<p style="text-align: right;">198</p> <p>1 Q. Is it correct that DPS is the only state</p> <p>2 agency that can issue EICs?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. Now, I would like to hand you an</p> <p>5 exhibit. I'll give you a moment to review it.</p> <p>6 (Exhibit No. 84 marked.)</p> <p>7 THE REPORTER: Exhibit 84.</p> <p>8 (Discussion off the record.)</p> <p>9 Q. (BY MS. KORGAONKAR) Exhibit 84 is</p> <p>10 Bates-stamped TEX-0511323, for the record. When you've</p> <p>11 had a minute to look at it, if you could just let me</p> <p>12 know.</p> <p>13 A. Okay.</p> <p>14 Q. Okay. Have you seen this document before?</p> <p>15 A. Yes, ma'am.</p> <p>16 Q. Okay. And what is this document?</p> <p>17 A. Well, it appears to be an e-mail from me to</p> <p>18 the leadership and the -- the driver license leadership</p> <p>19 and the different driver license regions about EIC</p> <p>20 reporting -- information reporting requirements.</p> <p>21 Q. And are these the regions for which you're</p> <p>22 responsible?</p> <p>23 A. In part.</p> <p>24 Q. And what do you mean by that?</p> <p>25 A. As I explained previously, I'm responsible for</p>	<p style="text-align: right;">200</p> <p>1 provided it to -- to my chain of command.</p> <p>2 Q. And, to your knowledge, was it only provided</p> <p>3 to your chain of command within DPS or did it go</p> <p>4 outside of DPS as well?</p> <p>5 A. To my knowledge, it went to my chain of</p> <p>6 command, and that would be Paul Watkins and A.D.</p> <p>7 Peters.</p> <p>8 Q. Okay. And could you tell me what you meant by</p> <p>9 "tightening up"? It seems like there's a change in the</p> <p>10 requirements. I guess what I'm trying to get at is</p> <p>11 what were the requirements before and then what</p> <p>12 happened?</p> <p>13 A. I would have to see -- I would have to see</p> <p>14 whatever I had sent out previously.</p> <p>15 Q. Okay. As far as you can recall.</p> <p>16 A. As near as I can recall, they -- obviously,</p> <p>17 since I had asked for it, the regions were not</p> <p>18 including the office name or the station number. And</p> <p>19 then that would -- then the narrative -- I mean, they</p> <p>20 may have been providing a narrative.</p> <p>21 Q. Okay.</p> <p>22 A. Because if you look at the example, it lays</p> <p>23 out what I was looking for.</p> <p>24 Q. And in the last sentence, you wrote, "The</p> <p>25 clearer you make this up front, the fewer follow-up</p>

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<p style="text-align: right;">201</p> <p>1 phone calls we have to have."</p> <p>2 A. Yeah.</p> <p>3 Q. Is that right?</p> <p>4 A. Yes, ma'am.</p> <p>5 Q. What -- what exactly did you mean by that?</p> <p>6 A. If I got information from a region that --</p> <p>7 that was -- was incomplete, then I would have to call</p> <p>8 them.</p> <p>9 Q. You would have to call them in order to</p> <p>10 complete the information, right?</p> <p>11 A. To find out what the information was.</p> <p>12 Q. And why would you have to do that?</p> <p>13 A. Well, because I was in charge of the program</p> <p>14 and I viewed it as my responsibility to provide as</p> <p>15 complete information as I could get to my chain of</p> <p>16 command.</p> <p>17 Q. Okay. And was there a problem with phone --</p> <p>18 you mentioned fewer follow-up phone calls. At the</p> <p>19 time, were there too many follow-up phone calls, as far</p> <p>20 as you can remember?</p> <p>21 A. Well, when you're trying to call nine people</p> <p>22 about something it consumes a fair amount of your time.</p> <p>23 Q. Okay, fair enough. And when the information</p> <p>24 requirements changed, do you recall where you got the</p> <p>25 change information from or -- that's a confusing</p>	<p style="text-align: right;">203</p> <p>1 Q. Okay. So just for my understanding, the</p> <p>2 mobile units that are operated by DPS are different</p> <p>3 from the mobile units that are operated by the</p> <p>4 Secretary of State?</p> <p>5 A. The -- those units -- with the exception of</p> <p>6 the cell phone, those are the same units. The cell</p> <p>7 phone is the only change in terms of equipment.</p> <p>8 Q. But in terms of who is organizing the</p> <p>9 availability of those units --</p> <p>10 A. The Secretary of State has units and</p> <p>11 they can -- we maintain the units. They tell us where</p> <p>12 they're going to go and our employees bring the unit to</p> <p>13 that location. The Secretary of State operates the</p> <p>14 unit. They set it up, they operate it.</p> <p>15 Q. Okay. So for that category, I'll call them</p> <p>16 the Secretary of State mobile units.</p> <p>17 A. Okay.</p> <p>18 Q. The DPS's responsibility is to bring the</p> <p>19 equipment to a place that the Secretary of State has</p> <p>20 designated to set up and then it's operated entirely by</p> <p>21 the Secretary of State from that point on or does a DPS</p> <p>22 employee remain?</p> <p>23 A. Depending on where it is, the DPS employee may</p> <p>24 or may not remain because we -- we did train a number</p> <p>25 of Secretary of State personnel. Some of them are less</p>
<p style="text-align: right;">202</p> <p>1 question.</p> <p>2 A. Yes.</p> <p>3 Q. Did someone ask that the information</p> <p>4 requirements be changed?</p> <p>5 A. No, I decided.</p> <p>6 Q. And you decided for what purpose?</p> <p>7 A. I decided to ensure that we had more</p> <p>8 continuity of the information and clarity and quality.</p> <p>9 Q. Okay. You can set that document aside for</p> <p>10 now.</p> <p>11 A. I'll keep them in order.</p> <p>12 Q. Okay. Currently, what are all of the types of</p> <p>13 places that someone can apply for an EIC?</p> <p>14 A. A customer can get -- can apply for an EIC in</p> <p>15 a driver license office. They can apply for an EIC at</p> <p>16 a mobile location that's operated by DPS employees.</p> <p>17 They can go and they can apply -- in some -- in some of</p> <p>18 the counties that I've touched on before, the counties</p> <p>19 that don't have driver license offices that have</p> <p>20 entered into the memorandum of understanding with DPS,</p> <p>21 they can go to wherever that county is designated for</p> <p>22 EIC issuance. And the Secretary of State has some</p> <p>23 mobile units and they can go to a location where the</p> <p>24 Secretary of State are conducting mobile operations and</p> <p>25 they can apply for an election certificate there.</p>	<p style="text-align: right;">204</p> <p>1 confident in their ability to issue and, in that case,</p> <p>2 we have instructed our employees to remain to help to</p> <p>3 make sure that it's done properly.</p> <p>4 Q. Okay. And why are some of them less</p> <p>5 confident?</p> <p>6 A. We're asking them to do something they've</p> <p>7 never done before. It would be as if I were to give</p> <p>8 you an eight-hour block of instruction and send you out</p> <p>9 by yourself.</p> <p>10 Q. Right.</p> <p>11 A. You would want someone who has done it before</p> <p>12 to go with you.</p> <p>13 Q. Is it right that most of the Secretary of</p> <p>14 State employees have probably not done any kind of</p> <p>15 licensing, at least in their job in the Secretary of</p> <p>16 State's office?</p> <p>17 A. I don't know what their jobs entail, so I</p> <p>18 wouldn't want to speculate.</p> <p>19 Q. Okay. Has -- to your knowledge, has the --</p> <p>20 has the biggest problem been that they don't issue</p> <p>21 usually issue any kind of licenses the way that DPS</p> <p>22 employees do with frequency?</p> <p>23 A. I wouldn't categorize it as a problem.</p> <p>24 Q. Or the source of a lack of confidence, as you</p> <p>25 called it earlier?</p>

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<p style="text-align: right;">205</p> <p>1 A. I don't know. I mean, it's -- it's difficult 2 for me to categorize what somebody is thinking. I hate 3 to be imprecise. If you could help me -- rephrase the 4 question and I can try and answer it better. 5 Q. It's just a very simple point. So I 6 understand from your testimony, but correct if I'm 7 mistaken, that for these Secretary of State operated 8 mobile units, you have perceived -- or DPS has 9 perceived that some of the Secretary of State employees 10 who are manning them are a little bit less confident 11 than DPS employees when they man the DPS mobile units? 12 A. Well, that's not entirely an accurate 13 statement. And if I said that, that's not what I 14 meant. Depending on the distances involved, our 15 employees will bring the unit out there and will link 16 up with the Secretary of State employees. And then 17 there could be a variety of reasons they stay. They 18 might not want to drive back six hours. They might 19 stay and help out. 20 Q. Okay. 21 A. Or -- or the Secretary of State personnel can 22 say, "Please stay," in which case we're happy to do 23 that. 24 Q. All right, fair enough. Are there -- so you 25 listed out four different categories of places where</p>	<p style="text-align: right;">207</p> <p>1 A. I would have to refer to a map. I mean, we 2 have that, but -- 3 Q. You don't remember offhand any of them? 4 A. Garza is one that I remember, yeah. 5 Q. Garza is one of them? 6 A. It's Garza, Blanco, and then there are some 7 other ones. Off the top of my head, those are the ones 8 I can recall. 9 Q. Okay. And what is the timeframe for those 10 seven counties to be participating in the mobile 11 program through these HHS employees? 12 A. When do we think they're going to be issuing 13 EICs? 14 Q. Or accepting applications. 15 A. I don't know yet. I don't -- I don't have 16 that information. 17 Q. How did those seven counties get chosen or how 18 did they come about to be the ones? 19 A. Those were counties in which we did not have 20 an existing driver license office. 21 Q. Okay. 22 A. So it was part of the 78 counties that didn't 23 have any. And there were discussions at senior levels 24 between DPS and HHSC to determine if there were -- if 25 HHSC had a presence in some of those locations. It</p>
<p style="text-align: right;">206</p> <p>1 people right now can apply for EICs. Are there 2 currently any plans, that you're aware of, to expand 3 that list of categories? 4 A. Yes. 5 Q. And what are some of -- or what are all of 6 those plans right now, as you know them? 7 A. As I know the plans is that we -- we are in 8 the process or we have -- I can't remember if we have 9 trained them all or not. But we have provided training 10 for a number of Health and Human Services employees who 11 are in seven counties around the State. 12 Q. And those employees, have they been trained to 13 man mobile stations, mobile EIC units? 14 A. The equipment that we have -- the equipment 15 that we have leftover was part of the original 80 that 16 we purchased for counties, okay. 17 Q. Uh-huh. 18 A. So we didn't go out and buy new. We have got 19 this equipment that still -- it's been -- we still have 20 it. So if the -- if the seven HHSC county employees, 21 if they are going to use the equipment, it would be 22 the -- part of the original 80 or so that we purchased 23 as part of the county -- the county effort. 24 Q. Okay. And do you know which counties those 25 seven are?</p>	<p style="text-align: right;">208</p> <p>1 turned out that it was -- or they did. 2 Q. Do you know approximately when those 3 conversations started? 4 A. I wasn't a party to them. I don't know. I 5 know that I spoke with a gentleman named Rolando Garza 6 in probably March -- maybe March. 7 Q. Okay. So early spring of this year, to your 8 knowledge? 9 A. To my knowledge, yes. 10 Q. Okay. And any other plans for expanding the 11 types of places where a person could get an EIC, 12 besides the one that you listed so far? 13 A. Not at the present time. 14 Q. Okay. So I would like to get just a general 15 sense of the current availability of places where 16 people can apply for EICs, and I would like to start 17 with the brick and mortar DPS locations generally. 18 So how many DPS offices are there in 19 Texas? 20 A. 229. 21 Q. 229. How many driver's license offices are 22 there? 23 A. I'm sorry. There are 229 driver license 24 offices in the State of Texas. 25 Q. Do you know approximately how many DPS</p>

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<p style="text-align: right;">209</p> <p>1 offices?</p> <p>2 A. No, I don't. I'm not a facility person. I</p> <p>3 wouldn't speculate.</p> <p>4 Q. Okay. And just for the sake of clarity, what</p> <p>5 is the difference between a DPS office and a driver's</p> <p>6 license office?</p> <p>7 A. Certainly. A DPS office is a facility that's</p> <p>8 operated by DPS. It may have -- it may have highway</p> <p>9 patrol. It may have Texas Rangers. It may be a</p> <p>10 maintenance point. It may be nothing more than a</p> <p>11 communications building or it could be a driver license</p> <p>12 office. We're a large agency. We have a lot of</p> <p>13 other -- a lot of subdivisions within the agency and</p> <p>14 they could crew some of our offices. And then we also</p> <p>15 have some offices that -- in which all of those</p> <p>16 entities or portions of those entities work together.</p> <p>17 Q. Okay. And how many counties don't have a</p> <p>18 driver's license office? Is it around 79 or 80?</p> <p>19 A. 78.</p> <p>20 Q. 78, okay. Are there counties that you know of</p> <p>21 that have no DPS office at all?</p> <p>22 A. I don't know.</p> <p>23 Q. Why do some counties not have driver's license</p> <p>24 offices?</p> <p>25 A. Well, there's a variety of reasons. The</p>	<p style="text-align: right;">211</p> <p>1 standpoint, it doesn't make -- it doesn't make much</p> <p>2 business sense to put an office out in Loving County.</p> <p>3 Q. And who is making the decisions about whether</p> <p>4 it makes sense from a business standpoint?</p> <p>5 A. Ultimately, within driver license, it's A.D.</p> <p>6 Peters based on the recommendation of the staff.</p> <p>7 Q. Okay. And, similarly -- I should have asked</p> <p>8 this a minute ago. But when it came to deciding which</p> <p>9 counties would receive the updated equipment around</p> <p>10 2009 or so, do you know who made the decision about</p> <p>11 which counties would get the updated equipment?</p> <p>12 A. So we have had -- we have had two sets of</p> <p>13 updated equipment. So we switched in 2009 and we just</p> <p>14 switched now to the current -- the current equipment</p> <p>15 that we have. But the decision was made by driver</p> <p>16 license leadership. It would have been the A.D. at the</p> <p>17 time, which was Rebecca Davio, or now for the</p> <p>18 current -- current equipment, it's A.D. Peters.</p> <p>19 Q. In your professional opinion, are there some</p> <p>20 counties where it might make sense to have driver's</p> <p>21 license offices but that don't right now?</p> <p>22 A. Well, I wouldn't want to -- to speculate,</p> <p>23 other than to say that I think that the number of</p> <p>24 offices that we have matches the population density and</p> <p>25 the business that we -- we currently experience in our</p>
<p style="text-align: right;">210</p> <p>1 population of the county. The availability of</p> <p>2 equipment to send to counties. Other resources.</p> <p>3 Q. So what do you mean when you say "the</p> <p>4 availability of equipment"?</p> <p>5 A. We have a -- our driver license equipment and</p> <p>6 we have purchased that after -- well, after our old</p> <p>7 equipment was so obsolete that it ceased to function.</p> <p>8 So we purchased a given number of sets, and with those</p> <p>9 given number of sets we can only equip so many offices.</p> <p>10 Q. And do you know around what time it was that</p> <p>11 the old equipment, it sounds like, went obsolete, just</p> <p>12 a rough timeframe?</p> <p>13 A. It was -- to the best of my knowledge, it was</p> <p>14 somewhere around 2009.</p> <p>15 Q. Okay. So did certain counties before 2009</p> <p>16 have functioning driver's license offices that then</p> <p>17 closed and have not since reopened because of the</p> <p>18 problem with the equipment?</p> <p>19 A. I believe so, yes.</p> <p>20 Q. And you also mentioned population was one of</p> <p>21 the reasons that some of these counties may not have</p> <p>22 driver's license offices. Can you tell me what you</p> <p>23 meant by that?</p> <p>24 A. Well, an example is Loving County where they</p> <p>25 have fewer than 100 people. From a business process</p>	<p style="text-align: right;">212</p> <p>1 offices.</p> <p>2 Q. So right -- is it correct to say that right</p> <p>3 now, you don't feel there are any places where it might</p> <p>4 make sense to have a driver's license office, but that,</p> <p>5 at least at this moment, don't?</p> <p>6 A. None come to mind right now.</p> <p>7 Q. Okay. Can all driver's license offices, all</p> <p>8 229 of them, issue EICs?</p> <p>9 A. Yes.</p> <p>10 Q. And how long has that been accurate?</p> <p>11 A. Well, it was -- it was accurate from when we</p> <p>12 were asked to -- to start the program.</p> <p>13 Q. When was that, roughly?</p> <p>14 A. Late June.</p> <p>15 Q. Has that been true continuously of all 229</p> <p>16 since late June?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. Who sets the hours for these driver's</p> <p>19 license offices?</p> <p>20 A. The -- the hours are -- in general, they're</p> <p>21 set by headquarters in Austin, and there are some local</p> <p>22 variations.</p> <p>23 Q. Okay. So in terms of the hours that are set</p> <p>24 in Austin, which division of DPS is it that sets those</p> <p>25 hours?</p>

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<p style="text-align: right;">213</p> <p>1 A. That would be the Driver License Division who</p> <p>2 sets the driver license operation -- operating hours.</p> <p>3 Q. And do you have a role in that?</p> <p>4 A. I have an advisory role, yes.</p> <p>5 Q. So what factors go into considering the hours</p> <p>6 for the license offices?</p> <p>7 A. Well, it's -- it's the population, customer</p> <p>8 flow, the number of transactions, drive -- number of</p> <p>9 drive tests.</p> <p>10 Q. And would you say that all of those factors</p> <p>11 factor in about equally?</p> <p>12 A. Well, we have -- generally speaking, we have a</p> <p>13 standard set of hours. The only real variations are in</p> <p>14 smaller offices.</p> <p>15 Q. Is that -- are those the variations that you</p> <p>16 said were the second group, the ones that have some</p> <p>17 local variations?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. And when -- when local hours vary to</p> <p>20 those local offices, say an office wants to expand or</p> <p>21 truncate the hours that they're open, do they need</p> <p>22 permission from Austin?</p> <p>23 A. They -- the permission is routed through the</p> <p>24 chain of command, yes.</p> <p>25 Q. So they do?</p>	<p style="text-align: right;">215</p> <p>1 with it, I would like to set the hours to open at such</p> <p>2 and such time with a lunch and then a dinner or to</p> <p>3 close the doors at another time."</p> <p>4 Q. And when the decision ultimately comes to you</p> <p>5 to approve, what do you think about when you're</p> <p>6 deciding whether it makes sense for the hours to change</p> <p>7 in X or Y way?</p> <p>8 A. It depends on -- it depends on the location of</p> <p>9 the office and the -- and the discussion that I have</p> <p>10 with the -- with the manager. But, generally speaking,</p> <p>11 I'm concerned about servicing the public. That's our</p> <p>12 job. And I'm also concerned about what we're asking</p> <p>13 the employee to do and the number of hours we're asking</p> <p>14 them to work over a given period of time.</p> <p>15 Q. So when you say that it depends on the</p> <p>16 location, is that -- do you mean the location with</p> <p>17 respect to wherever that employee would need to come</p> <p>18 from?</p> <p>19 A. The location of the office, yes.</p> <p>20 Q. But the location -- for what purpose? You</p> <p>21 mentioned earlier that some employee might need to</p> <p>22 drive two hours, it might take them some time to get</p> <p>23 there.</p> <p>24 A. Sure.</p> <p>25 Q. And then when you say "location," I also think</p>
<p style="text-align: right;">214</p> <p>1 A. Yes.</p> <p>2 Q. Okay.</p> <p>3 A. But I haven't seen any truncation of hours.</p> <p>4 You have to understand that the hours, especially in</p> <p>5 rural offices, generally speaking, are based on travel</p> <p>6 time. So if we're asking an employee to travel to an</p> <p>7 office to conduct business and there's banking and</p> <p>8 stuff that needs to be done at the close of business</p> <p>9 day, and so that's what sets the hours. It's a</p> <p>10 decision that we make based on that information.</p> <p>11 Q. So it's a decision based on information that</p> <p>12 you may receive from the local employee about what they</p> <p>13 think is the -- makes the most sense for their office?</p> <p>14 A. No.</p> <p>15 Q. Correct me. Tell me how it works.</p> <p>16 A. Okay. So there's a dialogue that occurs</p> <p>17 between the -- the CSR and the office supervisor and</p> <p>18 the regional manager. And based on that dialogue, the</p> <p>19 regional manager contacts me and we discuss the hours.</p> <p>20 Q. And, in general, what is -- what is the</p> <p>21 dialogue about?</p> <p>22 A. Well, it would depend on the office,</p> <p>23 obviously. But it would be -- it would be, "I have a</p> <p>24 two-hour drive to get to Office X and a two-hour drive</p> <p>25 to get back at the close of the day. If you're okay</p>	<p style="text-align: right;">216</p> <p>1 about population, which varies, obviously, based on the</p> <p>2 location. So when you say that you -- one of things</p> <p>3 that you consider is the location, what about the</p> <p>4 location?</p> <p>5 A. It's -- it's where the location of the office</p> <p>6 is relative to where the employee is coming from.</p> <p>7 Q. Okay. So for the 229 driver's license</p> <p>8 offices, is it right that none of them needed to opt in</p> <p>9 or opt out of the EIC program?</p> <p>10 A. No. That was an assignment they were given.</p> <p>11 Q. Okay. So there was no discretion. All 229 of</p> <p>12 the actual driver's license offices have issued EICs</p> <p>13 from the end of June through the present?</p> <p>14 A. Well, I don't know if each office had issued</p> <p>15 one, but they all have the capability to issue an EIC.</p> <p>16 Q. Okay. Has DPS conducted any studies into the</p> <p>17 relative distances that the EIC applicants or just the</p> <p>18 people at large might travel in order to go to a place</p> <p>19 where they can get an EIC application?</p> <p>20 A. I don't know if you would call it a study.</p> <p>21 There are a couple of map charts, PowerPoint slides</p> <p>22 that were produced that indicate -- to the best of my</p> <p>23 knowledge, one of them showed the location of offices</p> <p>24 with a 25-mile circle and one of them showed the</p> <p>25 location of our offices with a 50-mile circle radius</p>

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<p style="text-align: right;">217</p> <p>1 around the office.</p> <p>2 Q. Okay. I think that this next exhibit is what</p> <p>3 you are describing.</p> <p>4 THE REPORTER: Is it both pages?</p> <p>5 MS. KORGAONKAR: Yes.</p> <p>6 THE REPORTER: Don't we already have this</p> <p>7 as an exhibit?</p> <p>8 (Discussion off the record.)</p> <p>9 (Exhibit No. 85 marked.)</p> <p>10 THE REPORTER: Exhibit 85.</p> <p>11 Q. (BY MS. KORGAONKAR) Take a moment to look at</p> <p>12 it and let me know when you're ready.</p> <p>13 A. Okay.</p> <p>14 Q. Have you seen this document before?</p> <p>15 A. Yes.</p> <p>16 Q. And is this the type of document that you</p> <p>17 referred to just a minute ago?</p> <p>18 A. Yes, ma'am, it is.</p> <p>19 Q. Okay. So tell me a little bit about who</p> <p>20 prepared the document and just where it came from.</p> <p>21 A. Well, the gentleman who prepared it is named</p> <p>22 Christopher Krueger. He is one of our strategic</p> <p>23 analysts in Driver License Division.</p> <p>24 Q. Okay. And why did he prepare this?</p> <p>25 A. I'm sure he was asked to prepare it, and I</p>	<p style="text-align: right;">219</p> <p>1 predate this one from September or that postdate it or</p> <p>2 was this the only one like this created?</p> <p>3 A. For EICs?</p> <p>4 Q. Well, of this document. Do you need to me to</p> <p>5 clarify?</p> <p>6 A. The reason I asked is because there is another</p> <p>7 chart that we use for a different thing. We use it to</p> <p>8 figure out where the offices are for commercial driver</p> <p>9 licenses. It's in no way related to CELs, but I've</p> <p>10 seen similar documents. But it deals with commercial</p> <p>11 driver licenses, not EICs. That's why I was --</p> <p>12 Q. No, I appreciate that. So I'll limit it. I</p> <p>13 just mean, is there another document like this that</p> <p>14 would have been prepared for the purposes of EICs?</p> <p>15 A. Not to my knowledge. I don't know.</p> <p>16 Q. Okay. So, to your knowledge, this is the only</p> <p>17 one --</p> <p>18 A. As far as I know.</p> <p>19 Q. -- this one from September?</p> <p>20 A. Yes, ma'am, as far as I know.</p> <p>21 Q. All right. And after you received this</p> <p>22 document, did you or anyone else at DPS think about</p> <p>23 what this may have shown in terms of EIC availability</p> <p>24 in Texas?</p> <p>25 A. Well, I'm sure we had a meeting, but I don't</p>
<p style="text-align: right;">218</p> <p>1 don't remember who directed its preparation.</p> <p>2 Q. Okay. And do you know for what -- for what</p> <p>3 purpose?</p> <p>4 A. Merely to depict the radiuses -- the 25-mile</p> <p>5 radiuses around driver license offices or -- or the</p> <p>6 50-mile radius around the offices relative to</p> <p>7 population.</p> <p>8 Q. But it wasn't -- it wasn't prepared with a</p> <p>9 specific goal in mind, other than to prepare it?</p> <p>10 A. Well, again, I wasn't -- I wasn't party to the</p> <p>11 decision to why it came about. I know that it was done</p> <p>12 just to show the distances that the percentage of the</p> <p>13 population is from the -- from one of our offices in</p> <p>14 either 50 or 25 miles.</p> <p>15 Q. So was there something happening at DPS in</p> <p>16 September that made this a useful document for someone</p> <p>17 to -- to direct Mr. Krueger to create?</p> <p>18 A. I'm sure there was. I can't -- I can't</p> <p>19 recall. I don't -- I don't know.</p> <p>20 Q. Okay. Could it have been related to --</p> <p>21 A. EICs?</p> <p>22 Q. -- DPS offices and EICs?</p> <p>23 A. Let's see. It could have been, yes.</p> <p>24 Q. And do you -- do you know whether there are</p> <p>25 any similar maps like this that were -- that either</p>	<p style="text-align: right;">220</p> <p>1 recall the discussion internal to the meeting. I know</p> <p>2 I've seen it, but that's as good as I can tell you</p> <p>3 right now.</p> <p>4 Q. That's fine. Can you recall who would have</p> <p>5 been at such a meeting in addition to you?</p> <p>6 A. Sure. That would be -- probably would be A.D.</p> <p>7 Peters; Paul Watkins; Deputy Assistant Director JoeAnna</p> <p>8 Mastracchio; Krueger, of course; Steve Bell, the other</p> <p>9 guy. Other than that --</p> <p>10 Q. Do you think anyone from outside of DPS might</p> <p>11 have been there?</p> <p>12 A. No, I don't think so.</p> <p>13 Q. And do you know whether this -- whether this</p> <p>14 map was forwarded outside of the agency?</p> <p>15 A. I don't know.</p> <p>16 Q. Do you think anyone at DPS would know?</p> <p>17 A. I don't know.</p> <p>18 Q. Okay. You can set this one aside. I'm going</p> <p>19 to hand you the next exhibit.</p> <p>20 THE REPORTER: Do they go together?</p> <p>21 MS. KORGAONKAR: They do. It's an e-mail</p> <p>22 and the attachment to that e-mail.</p> <p>23 THE REPORTER: So staple it?</p> <p>24 MS. KORGAONKAR: Please. Sorry that they</p> <p>25 were not stapled.</p>

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<p style="text-align: right;">221</p> <p>1 (Exhibit No. 86 marked.)</p> <p>2 THE REPORTER: Exhibit 86.</p> <p>3 Q. (BY MS. KORGAONKAR) Just take a moment to</p> <p>4 look at it and let me know.</p> <p>5 A. Okay.</p> <p>6 Q. Have you seen this document before?</p> <p>7 A. Yes, ma'am, I have.</p> <p>8 Q. And what is it?</p> <p>9 A. This is an e-mail with an attachment. The</p> <p>10 attachment shows, as near as I can determine, the</p> <p>11 counties in Texas which don't have driver license</p> <p>12 offices resident in them.</p> <p>13 Q. Okay. So in the e-mail that begins the chain,</p> <p>14 which is found at --</p> <p>15 A. Yes.</p> <p>16 Q. -- TEX-0511236, could you read the last</p> <p>17 sentence in that e-mail for the record?</p> <p>18 A. The last sentence?</p> <p>19 Q. Uh-huh.</p> <p>20 A. "I have highlighted the counties in which</p> <p>21 there is a temporary DPS office set up already in the</p> <p>22 county with contact information, if available, for that</p> <p>23 office." Can I read that again?</p> <p>24 Q. Sure.</p> <p>25 A. "I have highlighted the counties in which</p>	<p style="text-align: right;">223</p> <p>1 A. Which counties did you say?</p> <p>2 Q. So in Ms. Templeton's attachment --</p> <p>3 A. Yes.</p> <p>4 Q. -- from September 25th --</p> <p>5 A. Yes.</p> <p>6 Q. -- Motley, Armstrong, and --</p> <p>7 A. Hold that thought.</p> <p>8 Q. Sure.</p> <p>9 A. Motley, Armstrong --</p> <p>10 Q. And Sutton.</p> <p>11 A. Sutton. I can't find Sutton county, okay. I</p> <p>12 can't find Sutton county. I can tell you that</p> <p>13 Armstrong County and Motley County are counties in</p> <p>14 which we don't have a driver license office, and I can</p> <p>15 tell you that because this chart that I have here in</p> <p>16 blue depicts the counties where we sent mobile units.</p> <p>17 Q. Okay.</p> <p>18 A. And we sent mobile units to counties that did</p> <p>19 not have driver license offices. And if I could ever</p> <p>20 find Sutton, I can tell you -- give you the answer on</p> <p>21 that one.</p> <p>22 Q. Well, I can tell you that I'm trying to</p> <p>23 understand something specific.</p> <p>24 A. Sure.</p> <p>25 Q. Do you -- strike that.</p>
<p style="text-align: right;">222</p> <p>1 there is a temporary DPS office set up already in the</p> <p>2 county with contact information, if available, for that</p> <p>3 office."</p> <p>4 Q. Okay. So I just wanted to talk about the</p> <p>5 temporary DPS office that was already set up. Can you</p> <p>6 tell me what those offices would have been or are?</p> <p>7 A. I don't know. Jennifer Templeton is a</p> <p>8 Secretary of State employee. I don't know where she</p> <p>9 got that information.</p> <p>10 Q. So, to your knowledge, were there any</p> <p>11 temporary DPS offices set up in any counties as of the</p> <p>12 date of the e-mail?</p> <p>13 A. No. This appears to be a list of the</p> <p>14 counties -- the 80 counties where we don't have offices</p> <p>15 I don't know. Why she would have referred to them as</p> <p>16 temporary.</p> <p>17 Q. So, unfortunately, this attachment isn't</p> <p>18 printed in color, but I can represent to you that if it</p> <p>19 were, the three counties that would have been</p> <p>20 highlighted are Motley, Armstrong, and Sutton.</p> <p>21 A. Hang on a second.</p> <p>22 Q. If that refreshes your recollection.</p> <p>23 A. In order to answer your question, I need to</p> <p>24 refer to another document.</p> <p>25 Q. I'm fine with that if that's --</p>	<p style="text-align: right;">224</p> <p>1 What are the temporary DPS offices --</p> <p>2 A. I don't know what --</p> <p>3 Q. -- that would have been set up?</p> <p>4 A. I don't know what she's talking about.</p> <p>5 Q. To your knowledge, were there any temporary</p> <p>6 offices set up in September?</p> <p>7 A. Temporary, no. I don't --</p> <p>8 Q. Were there --</p> <p>9 A. I'm telling you, I don't know what this woman</p> <p>10 wrote. I don't understand why she used that term.</p> <p>11 Q. Okay.</p> <p>12 A. I'm sorry, I don't understand what she wrote.</p> <p>13 Q. That's quite all right. Do you see that you</p> <p>14 received the e-mails on the first page?</p> <p>15 A. Sure.</p> <p>16 Q. September 26th at 2:30 p.m., and then it looks</p> <p>17 as if you forwarded it the next morning. Why did you</p> <p>18 forward this e-mail?</p> <p>19 A. Bob Meyers and Lynn Hale, they're part of our</p> <p>20 training team. And so I forwarded it to them so they</p> <p>21 could plan where they might need to go because,</p> <p>22 potentially, they might need to cover all these</p> <p>23 counties to train the employees there.</p> <p>24 Q. Okay. And as you stated just a minute ago,</p> <p>25 the list shows the 79 counties without driver's license</p>

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<p style="text-align: right;">225</p> <p>1 offices, and Ms. Templeton's e-mail states that 55</p> <p>2 counties are interested.</p> <p>3 A. It does, yes.</p> <p>4 Q. What happened next with those 55 interested</p> <p>5 counties?</p> <p>6 A. Well, somebody in DPS would reach out to them</p> <p>7 and offer them training. They would offer to train the</p> <p>8 counties on how to issue EICs. And -- and then the</p> <p>9 counties would go to a point that we designated, they</p> <p>10 would receive the training, they would take the</p> <p>11 equipment back to their -- to their county, and they</p> <p>12 were also provided with a blank memorandum of</p> <p>13 understanding, which they could provide to their county</p> <p>14 commissioners to vote on. And then, depending on the</p> <p>15 county, did their business, the judge would sign, and</p> <p>16 they would forward it to us.</p> <p>17 Q. And of those 55 counties, do you know how many</p> <p>18 ultimately ended up signing the memorandum?</p> <p>19 A. Yes. As of the 5th of May, 55 counties.</p> <p>20 Q. And what happened in September with the 24</p> <p>21 counties that Ms. Templeton indicated are outstanding</p> <p>22 with a response?</p> <p>23 A. Okay. They hadn't answered us back. I mean,</p> <p>24 we would have contacted them again.</p> <p>25 Q. Okay. And would it have been Mr. Meyers or</p>	<p style="text-align: right;">227</p> <p>1 identification available at any driver's license</p> <p>2 office?</p> <p>3 A. No.</p> <p>4 Q. Can you explain which forms might not be?</p> <p>5 A. Employee ID cards.</p> <p>6 Q. For DPS employees?</p> <p>7 A. That's correct.</p> <p>8 Q. Okay. So I mean, just to clarify, the types</p> <p>9 of DPS issued ID that the public can apply for. Are</p> <p>10 all of those forms available at any driver's license</p> <p>11 office?</p> <p>12 A. I understand those forms to be driver</p> <p>13 licenses, Texas personal identification cards, and</p> <p>14 election certificates, and those are available for</p> <p>15 issue at all of our driver license offices.</p> <p>16 Q. And what about concealed handgun licenses?</p> <p>17 A. The concealed handgun program, as I've said</p> <p>18 before, is operated through headquarters. It's</p> <p>19 operated through -- I don't know how you would</p> <p>20 categorize it. A division, I guess. Well, a</p> <p>21 division -- by the Regulatory Services Division. It's</p> <p>22 not done in person face-to-face.</p> <p>23 Q. Okay. And with respect to driver's licenses</p> <p>24 specifically, can you -- strike that.</p> <p>25 With respect to driver's licenses, can a</p>
<p style="text-align: right;">226</p> <p>1 Ms. Hale who would have contacted them or you or</p> <p>2 someone else?</p> <p>3 A. No. When did you say again, by September?</p> <p>4 Q. Well, as of -- right after this e-mail</p> <p>5 presumably, so late September or sometime thereafter.</p> <p>6 A. I believe it was -- it was Mr. Krueger who</p> <p>7 contacted the counties because -- because the -- it was</p> <p>8 getting so ponderous that Krueger was the one that was</p> <p>9 the point of contact for -- for counties to return</p> <p>10 their MOUs.</p> <p>11 Q. And you said, when you referred to the</p> <p>12 document that you were holding, that 55 of these</p> <p>13 counties as of May --</p> <p>14 A. The 5th of May, yes.</p> <p>15 Q. -- as of the 5th of May had signed a</p> <p>16 memorandum of understanding and had EIC capabilities.</p> <p>17 Do you know how many that number was by the time of the</p> <p>18 November 2013 election?</p> <p>19 A. Give me a second. No, I don't remember.</p> <p>20 Q. And do you know what the number would have</p> <p>21 been as of the March primaries just a couple of months</p> <p>22 ago?</p> <p>23 A. No. I would have to go back and -- I can't</p> <p>24 tell you. I don't know what they were.</p> <p>25 Q. Okay. Are all forms of DPS issued</p>	<p style="text-align: right;">228</p> <p>1 person applying for one go through all the steps</p> <p>2 required to ultimately get one at any driver's license</p> <p>3 office?</p> <p>4 A. Yes.</p> <p>5 Q. So there aren't any offices where you would</p> <p>6 apply for a driver's license, but you couldn't take the</p> <p>7 test, for example?</p> <p>8 A. Which test?</p> <p>9 Q. The test to get a driver's license, the</p> <p>10 driving test.</p> <p>11 A. The drive test, there may be an office which</p> <p>12 is not offering what we categorize as the skills test,</p> <p>13 the drive test. None of them come to mind. I'm under</p> <p>14 the impression, to the best of my knowledge, all of the</p> <p>15 offices offer drive tests. There may be one or two</p> <p>16 that don't, but none of them come to mind and I don't</p> <p>17 know why they wouldn't.</p> <p>18 Q. All right. I would like to take just a quick</p> <p>19 break, if that's okay.</p> <p>20 A. Sure.</p> <p>21 (Recess from 3:10 p.m. to 3:20 p.m.)</p> <p>22 THE REPORTER: Back on the record.</p> <p>23 Q. (BY MS. KORGAONKAR) So I just had,</p> <p>24 Mr. Rodriguez, one more question about Exhibit 86.</p> <p>25 A. Yes, ma'am.</p>

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<p style="text-align: right;">229</p> <p>1 Q. In the attachment, which is stamped 511237 --</p> <p>2 A. Uh-huh, yes.</p> <p>3 Q. -- through -- well, that's -- if you'll see</p> <p>4 the comment -- on the comments column on the far</p> <p>5 right --</p> <p>6 A. Armstrong County.</p> <p>7 Q. Right, and it continues through on the other</p> <p>8 pages to other counties as well. So I just wanted to</p> <p>9 ask, with Armstrong, for example, starting there, it</p> <p>10 says, "Sergeant Ward, DPS," and then there's what</p> <p>11 appears to be a phone number. And then it says,</p> <p>12 "Located, Clarendon." I just wanted to confirm -- or</p> <p>13 to ask your understanding of that. Does that seem to</p> <p>14 indicate that there might be a DPS office in that</p> <p>15 county, but, perhaps, not a driver's license office?</p> <p>16 A. There may be. And just based on the little</p> <p>17 bit of information that's provided in the box, it</p> <p>18 appears that there's some commissioned -- commissioned</p> <p>19 law enforcement officer is located in Clarendon County,</p> <p>20 or Clarendon.</p> <p>21 Q. And if you turn to the next page and look at</p> <p>22 Sutton County, there's another note in the comments</p> <p>23 column that says, "Sheriff's office building has DPS</p> <p>24 office and courthouse has DPS office open Thursday" --</p> <p>25 sorry -- "open every Thursday," and then what appears</p>	<p style="text-align: right;">231</p> <p>1 substance of the e-mail, around this time of year, how</p> <p>2 many EIC applications would DPS have been processing?</p> <p>3 A. I don't know.</p> <p>4 Q. Do you have a rough estimate?</p> <p>5 A. No. I would -- I would have to refer to</p> <p>6 something someplace. I don't know off the top of my</p> <p>7 head.</p> <p>8 Q. Okay. So in this e-mail, you write, "Folks,</p> <p>9 the word has come down that we need to open offices in</p> <p>10 the top 13 counties where the Secretary of State thinks</p> <p>11 there are potential voters who do not possess ID." Is</p> <p>12 that right?</p> <p>13 A. That's what it says, yes, ma'am.</p> <p>14 Q. So tell me what you meant when you said "the</p> <p>15 word has come down"?</p> <p>16 A. That's -- as I said before, that's the way I</p> <p>17 speak. So when I say "the word has come down," it</p> <p>18 means that I've been -- I don't know civilians would</p> <p>19 say it. I've been asked to, I've been invited to -- to</p> <p>20 do something. And, in this case, it was to open</p> <p>21 offices in the top 13 counties where the Secretary of</p> <p>22 State thinks there are potential voters who don't</p> <p>23 possess IDs. It's just the way I talk.</p> <p>24 Q. And when you said "come down," did that, to</p> <p>25 you, imply that you had been required to do something</p>
<p style="text-align: right;">230</p> <p>1 to be a phone number. Do you know what that note might</p> <p>2 mean?</p> <p>3 A. No more than you've read. I can't even find</p> <p>4 Sutton county on the map. I don't know what they meant</p> <p>5 because this document was produced by somebody in the</p> <p>6 Secretary of State's office, so I don't know -- I don't</p> <p>7 know what Jennifer Templeton was thinking when she</p> <p>8 populated it.</p> <p>9 Q. Okay.</p> <p>10 (Exhibit No. 87 marked.)</p> <p>11 Q. (BY MS. KORGAONKAR) I will now hand you</p> <p>12 Exhibit 87. Exhibit 87 is marked TEX-0496271 through</p> <p>13 6273.</p> <p>14 A. I think I have two copies of that.</p> <p>15 MS. KORGAONKAR: Off the record.</p> <p>16 (Discussion off the record.)</p> <p>17 THE REPORTER: Back on the record.</p> <p>18 Q. (BY MS. KORGAONKAR) Okay. So we're on</p> <p>19 Exhibit 87, I believe it is. I just wanted to turn</p> <p>20 your attention to the first e-mail in the chain that is</p> <p>21 dated September 9th, 2013.</p> <p>22 A. At 5:59 p.m.?</p> <p>23 Q. Exactly.</p> <p>24 A. Yes.</p> <p>25 Q. So before we get into the -- into the</p>	<p style="text-align: right;">232</p> <p>1 or invited to?</p> <p>2 A. I understood that to mean that was a -- that</p> <p>3 was a directive from my chain of command. You can put</p> <p>4 whatever you want on it. They asked me to do it and I</p> <p>5 did it.</p> <p>6 Q. So it was a mandatory instruction. Is that</p> <p>7 fair to say?</p> <p>8 A. Yes.</p> <p>9 Q. And was it the Secretary of State that gave</p> <p>10 you -- that gave DPS this instruction?</p> <p>11 A. I don't know who -- I don't know who gave the</p> <p>12 Secretary of State the -- or who gave DPS the</p> <p>13 instruction. What I wrote here is that the Secretary</p> <p>14 of State thinks there are potential voters in those</p> <p>15 counties.</p> <p>16 Q. Right. But setting aside the second part of</p> <p>17 the sentence, was the instruction that DPS received to</p> <p>18 open offices in these 13 counties received from the</p> <p>19 Secretary of State's office?</p> <p>20 A. I received it from my chain of command.</p> <p>21 Q. Do you know where DPS received it from?</p> <p>22 A. No.</p> <p>23 Q. Did DPS have any role in determining which</p> <p>24 those counties were?</p> <p>25 A. No.</p>

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59 (Pages 233 to 236)

<p style="text-align: right;">233</p> <p>1 Q. Now, dealing with the second part of the</p> <p>2 sentence, you said, "The top 13 counties where the</p> <p>3 Secretary of State thinks there are potential voters</p> <p>4 who don't possess ID."</p> <p>5 A. Uh-huh.</p> <p>6 Q. Did you -- strike that.</p> <p>7 As far as you know, based on what did the</p> <p>8 Secretary of State's office think this?</p> <p>9 A. Excuse me. Would you mind rephrasing that,</p> <p>10 please?</p> <p>11 Q. Sure. So you've stated the Secretary of State</p> <p>12 thinks there are these 13 counties with voters who may</p> <p>13 not possess ID.</p> <p>14 A. Yes.</p> <p>15 Q. Do you know what the Secretary of State's</p> <p>16 assessment was based on?</p> <p>17 A. No.</p> <p>18 Q. Did DPS have any role in determining which</p> <p>19 those 13 counties were?</p> <p>20 A. I don't believe so.</p> <p>21 Q. Did you ask anyone why these 13 counties?</p> <p>22 A. No. I was told to do it in 13 counties and</p> <p>23 that's what I did.</p> <p>24 Q. So did DPS -- not you personally, but DPS --</p> <p>25 inquire to the Secretary of State, "Why are these 13</p>	<p style="text-align: right;">235</p> <p>1 A. I didn't know. I mean, that's why I said, "I</p> <p>2 need you to start working on getting your folks</p> <p>3 energized." They're the people that are closer to the</p> <p>4 employees than I am. And that's part of the give and</p> <p>5 take that I have with my supervisors.</p> <p>6 Q. Okay. Did you think there might be some</p> <p>7 resistance from employees to the idea that they would</p> <p>8 have to come in on a Saturday when they usually didn't?</p> <p>9 A. Our employees are people. I don't like</p> <p>10 working on Saturdays unless it's required to. I mean,</p> <p>11 I do it. We can -- they'll do what we ask them to do.</p> <p>12 Q. Of course, okay. So now I want to look at the</p> <p>13 next e-mail in this same chain, the one --</p> <p>14 A. Directly above it?</p> <p>15 Q. I'm sorry?</p> <p>16 A. Directly above it?</p> <p>17 Q. That's right. The one that is time-stamped</p> <p>18 6:24 p.m.</p> <p>19 A. Uh-huh.</p> <p>20 Q. Could you read the first sentence in this</p> <p>21 e-mail?</p> <p>22 A. Yes. It says, "Gentlemen, we have been asked</p> <p>23 to open driver license offices in" -- pardon me -- "in</p> <p>24 13 counties that the Secretary of State's office</p> <p>25 believes have the highest number of Texans who require</p>
<p style="text-align: right;">234</p> <p>1 counties the ones and how did you determine that they</p> <p>2 would be the ones?"</p> <p>3 A. I don't know what discussions went on between</p> <p>4 DPS and the Secretary of State's office.</p> <p>5 Q. Okay. And then in the last sentence in this</p> <p>6 same e-mail, you wrote, "In the meantime, I need you to</p> <p>7 start working on getting your folks energized."</p> <p>8 Did you think that it would be a problem</p> <p>9 to get folks excited about this or energized about it?</p> <p>10 A. To ask somebody to come in on a Saturday. I</p> <p>11 think that we would need to talk to our employees and</p> <p>12 we would need to explain to them what needed to be</p> <p>13 done. And that's -- but that's also a colloquialism</p> <p>14 to -- if I ask you to get energized, we're going to go</p> <p>15 to dinner, you need to get energized, get your stuff,</p> <p>16 let's go.</p> <p>17 Q. Right.</p> <p>18 A. So in that respect, it's not that -- that the</p> <p>19 individual may or may not be willing to go or not.</p> <p>20 It's that when you -- it's a slang term, it's jargon.</p> <p>21 And so when you want someone to be energized, it's</p> <p>22 let's get them moving in that direction.</p> <p>23 Q. Of course. But did you think that it might be</p> <p>24 hard to get DPS employees energized about working on a</p> <p>25 Saturday?</p>	<p style="text-align: right;">236</p> <p>1 election identification certificates (EICs)."</p> <p>2 Q. Okay. So who asked that these license --</p> <p>3 driver's license offices be opened?</p> <p>4 A. It gets back to the -- your first question,</p> <p>5 which is we have been asked -- I mean, I was asked by</p> <p>6 my chain of command. It's part of -- I don't -- I</p> <p>7 don't think I fully understand your question.</p> <p>8 Q. Do you know whether the Secretary of State's</p> <p>9 office asked DPS to do this?</p> <p>10 A. I don't know.</p> <p>11 Q. You don't know, okay. So in this e-mail, you</p> <p>12 go on to state, "The bottom line is that these offices</p> <p>13 will open part of the day Saturday to issue EICs only."</p> <p>14 A. Hang on a second. Yes, I see that paragraph.</p> <p>15 Q. Okay.</p> <p>16 A. I'm sorry. I that sentence, yes.</p> <p>17 Q. Okay, great. So I noticed that this e-mail</p> <p>18 was sent on a Monday. September 9th was a Monday.</p> <p>19 A. Okay.</p> <p>20 Q. So I'll represent that to you.</p> <p>21 A. Thank you.</p> <p>22 Q. Was that short notice to be receiving and then</p> <p>23 giving this instruction on a Monday for Saturday hours</p> <p>24 that Saturday?</p> <p>25 A. Well, if you -- if you consider the audience</p>

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<p style="text-align: right;">237</p> <p>1 to which the e-mail was being sent, not necessarily.</p> <p>2 Q. What do you mean by that?</p> <p>3 A. Well, the audience are the regional</p> <p>4 commanders -- the DPS regional commanders. Remember, I</p> <p>5 talked about DPS regions. So they have a commander who</p> <p>6 is commissioned -- he is in charge of each of those</p> <p>7 regions. So I was informing them that they -- that</p> <p>8 those offices -- our driver licenses in those areas</p> <p>9 would be open.</p> <p>10 Q. So do you mean that for those people who were</p> <p>11 the recipients of this e-mail hearing on Monday that</p> <p>12 they had to get some of their offices open on Saturday</p> <p>13 wouldn't have been short notice for them?</p> <p>14 A. You have to understand how the DPS is</p> <p>15 organized. So I've spoken about regional managers,</p> <p>16 okay, and the regional managers are the driver license</p> <p>17 representatives in the DPS region, okay. There's also</p> <p>18 a regional commander, and that's a commissioned law</p> <p>19 enforcement officer and he is -- he is the highest</p> <p>20 ranking DPS person within that region and he exercises</p> <p>21 command over the driver license offices, highway</p> <p>22 patrol, the Rangers, CID. So he's the highest ranking</p> <p>23 person in the region. So for me to correspond with a</p> <p>24 regional commander to inform them that there are some</p> <p>25 offices that may be open, what is that, five days in</p>	<p style="text-align: right;">239</p> <p>1 A. Well, they would have either received it</p> <p>2 either in an e-mail, which you may or may not have --</p> <p>3 you should have, if I sent one -- or it would be during</p> <p>4 our 8:00 conference calls.</p> <p>5 Q. And what day of the week are the 8:00 calls?</p> <p>6 A. When we're in an EIC cycle, as we are now,</p> <p>7 it's every -- every workday.</p> <p>8 Q. And would you have been in an EIC cycle on the</p> <p>9 9th of September?</p> <p>10 A. I -- to the best of my knowledge, I was, yes.</p> <p>11 Q. And did the regional managers receive notice</p> <p>12 prior to this date --</p> <p>13 A. I --</p> <p>14 Q. -- of the Saturday openings?</p> <p>15 A. I -- I don't know for sure. They should have.</p> <p>16 It's -- it's the way that I would -- I would ordinarily</p> <p>17 do business.</p> <p>18 Q. So is it common for the for the managers to</p> <p>19 learn of something like this before the commanders</p> <p>20 would have?</p> <p>21 A. In some instances. It would depend on what it</p> <p>22 is. I mean the regional commander, as I stated, has a</p> <p>23 number of other functions. Okay. So they're -- it's</p> <p>24 hard to describe what they do to someone who doesn't</p> <p>25 work in driver license or DPS, so bear with me.</p>
<p style="text-align: right;">238</p> <p>1 advance, that may not be -- there is -- they just need</p> <p>2 to be aware of it.</p> <p>3 Q. Was this the first that they had learned of</p> <p>4 these Saturdays?</p> <p>5 A. As far as I know, yes.</p> <p>6 Q. So do you not -- it's not a trick question.</p> <p>7 I'm just trying to understand --</p> <p>8 A. No, I understand. I don't think we</p> <p>9 understand -- we're talking past each other.</p> <p>10 Q. Okay. I'll try to be more clear.</p> <p>11 A. Okay.</p> <p>12 Q. So telling them on a Monday that they have to</p> <p>13 mobilize certain offices to stay open on Saturday,</p> <p>14 would you consider that short notice considering that</p> <p>15 they did not know before the 9th that would need to be</p> <p>16 open on the 14th?</p> <p>17 A. No, because they are responsible for other</p> <p>18 functions, okay. The people who are responsible to</p> <p>19 ensure the offices are open are the regional managers,</p> <p>20 not the regional commanders.</p> <p>21 Q. But were the commanders deputized to then pass</p> <p>22 this information along to the managers?</p> <p>23 A. No.</p> <p>24 Q. So how did the managers receive the</p> <p>25 information?</p>	<p style="text-align: right;">240</p> <p>1 So the regional managers in driver</p> <p>2 license, they're the ones that ensure that the offices</p> <p>3 are open. So they're the ones that have to -- to get</p> <p>4 the resources available to open those offices. The</p> <p>5 regional commanders should be informed because it's an</p> <p>6 occurrence within their area of responsibility, which</p> <p>7 is their region; and -- and they're responsible for</p> <p>8 everything that happens within that region. So this</p> <p>9 was a -- it just -- it was merely a notification. But</p> <p>10 there was not much they had to do in order to -- in</p> <p>11 order for the offices to be open. They needed to be</p> <p>12 aware of it and perhaps a couple other things to let</p> <p>13 the communications people know or the highway patrol</p> <p>14 know that there would be offices and there may be</p> <p>15 customers outside of driver license open, it's open on</p> <p>16 a Saturday when it wasn't ordinarily.</p> <p>17 Q. I want to then draw your attention to what</p> <p>18 looks like a bullet point, although it's faint here.</p> <p>19 A. Hold on a second. I need to get a drink of</p> <p>20 water.</p> <p>21 Q. Sure.</p> <p>22 A. Okay. I'm with you.</p> <p>23 Q. On that first bullet point, you state, "I</p> <p>24 realize that this creates a real issue for you."</p> <p>25 A. Yes.</p>

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<p style="text-align: right;">241</p> <p>1 Q. What was the issue that you believed it 2 created --</p> <p>3 A. Well --</p> <p>4 Q. -- for the commanders?</p> <p>5 A. So I believed that the issue that it would 6 create for those regional commanders was that there 7 would be offices, which -- which are not open 8 ordinarily that would be open on whatever day I 9 specified in there; and that may be a resource issue 10 for them.</p> <p>11 Q. Okay. And then in the final sentence of the 12 first paragraph, could you read that starting, "We were 13 told"?</p> <p>14 A. Okay. "We were told to expect that this 15 effort would continue until the elections in November, 16 but my personal thought is that we don't get" -- that 17 was a misspelled -- "that we don't get any demand if -- 18 if we don't get any demand for EICs, we can make a case 19 to stop opening these offices."</p> <p>20 Q. So who told you to expect that the effort 21 would only continue through November elections?</p> <p>22 A. Well, here's my personal thought.</p> <p>23 Q. When you say, "We were told to expect"?</p> <p>24 A. Oh.</p> <p>25 Q. Someone told you that?</p>	<p style="text-align: right;">243</p> <p>1 EICs, obviously we would stay open. If a lot of -- a 2 lot of customers didn't show up, then we may be able to 3 go back and say -- you know, we're asking employees to 4 come in on Saturday. It cuts into their quality of 5 life and their family time, and we could make a case 6 that, you know, it might not be worth burning out our 7 employees -- that's my term -- to issue a small number 8 of EICs or potentially none.</p> <p>9 Q. Did you anticipate that there wouldn't be that 10 many people?</p> <p>11 A. I didn't know what to anticipate.</p> <p>12 Q. And what ended up happening, were there any 13 people for those first Saturday -- for that first 14 Saturday?</p> <p>15 A. The offices that I visit indicated on that 16 first Saturday, I was the only person to walk in. 17 Those were a couple of small offices.</p> <p>18 Q. Which -- which area?</p> <p>19 A. Killeen. I live in Gatesville. It was easy 20 for me to drive to Killeen.</p> <p>21 Q. Do you know about the other offices in 22 general?</p> <p>23 A. I don't believe we had -- we don't -- had many 24 customers; but in order to answer that question, I 25 would have to go and look and see where our --</p>
<p style="text-align: right;">242</p> <p>1 A. It was my chain of command. I'm sorry. It 2 would be Paul Watkins or perhaps AD Peters. I don't 3 know exactly who said this.</p> <p>4 Q. Okay. And do you know whether they're the 5 ones who made that decision?</p> <p>6 A. The decision to open on Saturdays?</p> <p>7 Q. Yes -- I'm sorry. The decision to stay open 8 through November elections on Saturdays.</p> <p>9 A. That was a discussion between -- between AD 10 Peters and Paul and Steve Bell and myself.</p> <p>11 Q. Okay. And was anyone from outside of DPS 12 involved in that decision?</p> <p>13 A. I don't recall. No, I don't recall.</p> <p>14 Q. And then the second part of the sentence about 15 your personal thought.</p> <p>16 A. Yes.</p> <p>17 Q. Tell me what you meant by that clause.</p> <p>18 A. It's merely that that's what my thought was 19 and that we were asking people to come in on Saturdays 20 and that if we didn't get any demand, if there wasn't a 21 group of people that came in -- because at that point 22 this appears to be relatively early in our EICs 23 efforts, and we weren't sure how many people would show 24 up. And -- and if a -- if a lot -- a lot of a 25 customers showed up in the offices to receive their</p>	<p style="text-align: right;">244</p> <p>1 Q. Okay. But just your recollection.</p> <p>2 A. My recollection was that we had very few 3 customers.</p> <p>4 Q. Okay. And "very few," could you quantify very 5 few or --</p> <p>6 A. I'd say -- as near as I can determine, I 7 believe the number was less than ten.</p> <p>8 Q. Less than ten for that date or for that series 9 of Saturdays?</p> <p>10 A. Well, for the first Saturday is the question 11 that I was answering for you.</p> <p>12 Q. Okay.</p> <p>13 A. If you want any more information, I have to go 14 back and look at the charts that we have to get you a 15 precise answer.</p> <p>16 Q. To just the best of your recollection, did the 17 numbers grow after that first Saturday or stay about 18 the same?</p> <p>19 A. Saturday service stayed roughly the same. 20 Q. Roughly the same. Okay. 21 (Exhibit 88 marked.)</p> <p>22 Q. (BY MS. KORGONKAR) Okay. I'm handing you 23 Exhibit 88. Just let me know when you're ready.</p> <p>24 A. Okay.</p> <p>25 Q. I just wanted to turn your attention to the</p>

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<p style="text-align: right;">245</p> <p>1 first e-mail in this chain, and that's the e-mail at</p> <p>2 9:28 a.m. on the page Bates marked TEX-0511360.</p> <p>3 A. Yes, I see it.</p> <p>4 Q. Is this a complete list here, this chart below</p> <p>5 of the regions within your area that were open on those</p> <p>6 Saturdays?</p> <p>7 A. No.</p> <p>8 Q. Do you know if such a list is available, a</p> <p>9 complete list?</p> <p>10 A. I don't know. I -- these aren't my regions.</p> <p>11 Q. So one 1A, 1B, 2A, and 2B?</p> <p>12 A. Those are Steve's.</p> <p>13 Q. Okay. Those are -- okay. Do you know whether</p> <p>14 this is a complete list of the Saturday open offices in</p> <p>15 that time period for his regions?</p> <p>16 A. I would have to compare that to other</p> <p>17 documents. It appears to be -- it appears to be</p> <p>18 complete with the exception of Townhurst. Townhurst</p> <p>19 was undergoing remodelling.</p> <p>20 Q. Okay.</p> <p>21 A. I do not believe the office was open at this</p> <p>22 point.</p> <p>23 Q. And then flipping back to the previous</p> <p>24 document. Yes.</p> <p>25 A. So that's Exhibit 87?</p>	<p style="text-align: right;">247</p> <p>1 Q. Does that mean there aren't enough people for</p> <p>2 it to make business sense?</p> <p>3 A. Aren't enough people?</p> <p>4 Q. There's not enough of a population for it to</p> <p>5 make business sense open an office on a Saturday for</p> <p>6 EICs in that region?</p> <p>7 A. There are not enough potential customers in</p> <p>8 Region 5 to warrant opening an office on Saturday.</p> <p>9 Q. What is a sufficient number of potential</p> <p>10 customers?</p> <p>11 A. I don't recall that number. I would have to</p> <p>12 go back and check other documents. I don't recall</p> <p>13 right now. I just remember that Region 5, because of</p> <p>14 the low density of population, didn't open offices on</p> <p>15 Saturdays.</p> <p>16 Q. Okay. And do you recall whose determination</p> <p>17 it was to not have a Region 5 office open?</p> <p>18 A. It was -- since the determination was based on</p> <p>19 population, then it was -- I don't know. I -- I can't</p> <p>20 remember who made the determination. I can't remember</p> <p>21 if I recommended it or -- or -- I'm sure ultimately</p> <p>22 within driver license it was Joe Peters, but I cannot</p> <p>23 recall the discussion that led up to that decision.</p> <p>24 Q. Ultimately, would you have had to sign off on</p> <p>25 that since it's your region?</p>
<p style="text-align: right;">246</p> <p>1 Q. 87. That's right.</p> <p>2 A. Okay.</p> <p>3 Q. Do you see the chart under the top e-mail, the</p> <p>4 6:26 p.m. e-mail that has your regions?</p> <p>5 A. Wait a second. I have a 6/24 e-mail.</p> <p>6 Q. Yes. Sorry. I misspoke. That's what I</p> <p>7 meant. That chart there under the 6/24 e-mail.</p> <p>8 A. Yes.</p> <p>9 Q. Does that represent a complete list of the</p> <p>10 offices in your regions that were open for those</p> <p>11 Saturday hours?</p> <p>12 A. It appears to. Again, I would have to go back</p> <p>13 and check with other documentation; but as near as I</p> <p>14 can determine, it appears to be a complete list, yes.</p> <p>15 Q. And I noticed that it doesn't look as though</p> <p>16 there's anywhere open in Region 5.</p> <p>17 A. That's correct.</p> <p>18 Q. Do you know whether -- so were there no</p> <p>19 offices, to your recollection, open in that region for</p> <p>20 this time period on Saturday?</p> <p>21 A. No.</p> <p>22 Q. Why is that?</p> <p>23 A. Because the population density in Region 5</p> <p>24 does not warrant opening offices on Saturdays for EIC</p> <p>25 purposes.</p>	<p style="text-align: right;">248</p> <p>1 A. Well, I report to -- I report to my chain of</p> <p>2 command.</p> <p>3 Q. Okay.</p> <p>4 A. It would have been a recommendation that I</p> <p>5 would have made.</p> <p>6 Q. Okay. And would it have been signed off on by</p> <p>7 Mr. Peters?</p> <p>8 A. We don't sign off on these thing like you sign</p> <p>9 a ticket. It would have been a verbal discussion</p> <p>10 between Mr. Peters and myself or myself and Mr. Watkins</p> <p>11 or some combination thereof. We would have been told</p> <p>12 to do it or not to do it.</p> <p>13 Q. So you would have reached an agreement among</p> <p>14 the three of you?</p> <p>15 A. Yes.</p> <p>16 Q. Or you and one of those two people, at least?</p> <p>17 A. Yes. Yes.</p> <p>18 MS. KORGAONKAR: Next exhibit is 89.</p> <p>19 (Exhibit No. 89 marked.)</p> <p>20 THE WITNESS: Thank you very much.</p> <p>21 That's when my son was born.</p> <p>22 Q. (BY MS. KORGAONKAR) Okay. So this exhibit is</p> <p>23 Bates stamped TEX-00304974. And it is a press release</p> <p>24 issued by the Secretary of State on September 13th,</p> <p>25 2013, is that right?</p>

<p style="text-align: right;">249</p> <p>1 A. Yes, that's what it says.</p> <p>2 Q. And the title is, "Secretary of State's</p> <p>3 commends DPS for opening offices on Saturdays to issue</p> <p>4 election IDs."</p> <p>5 A. Yes.</p> <p>6 Q. So I just have a couple of questions about</p> <p>7 this. You'll see that in the first sentence, the press</p> <p>8 release states that nearly 50 driver's license offices</p> <p>9 are offering Saturday hours in order to issue EICs.</p> <p>10 Is that right?</p> <p>11 A. It says "more election certificates," but yes.</p> <p>12 Q. Okay. Sorry. It says, "more election</p> <p>13 certificates."</p> <p>14 Do you know what the number actually was</p> <p>15 of offices?</p> <p>16 A. As of the 13th of September, no. I'm sorry.</p> <p>17 Election certificates?</p> <p>18 Q. No. Offices.</p> <p>19 A. I believe the number was 49 offices were open.</p> <p>20 Q. Okay. Okay. Do you know the process for</p> <p>21 selecting those 49 offices?</p> <p>22 A. The Secretary of State provided some</p> <p>23 information to DPS; and based on that information, I</p> <p>24 was directed to have the offices open.</p> <p>25 Q. What was the information that was provided?</p>	<p style="text-align: right;">251</p> <p>1 need an election certificate.</p> <p>2 Q. And do you know based on what they thought</p> <p>3 people in those counties might need an EIC?</p> <p>4 A. Say that again, please.</p> <p>5 Q. Do you know what the basis was for the</p> <p>6 Secretary of State's belief that people in X or Y</p> <p>7 county?</p> <p>8 A. I'm under the impression it was a comparison</p> <p>9 of databases.</p> <p>10 Q. Did DPS, to your knowledge, work on that</p> <p>11 comparison of databases at all?</p> <p>12 A. I don't know if DPS worked on the comparison</p> <p>13 of databases, no.</p> <p>14 Q. Okay.</p> <p>15 MS. KORGAONKAR: And do you know whether</p> <p>16 that list has been provided to us?</p> <p>17 MR. KEISTER: I have no idea.</p> <p>18 Q. (BY MS. KORGAONKAR) So the 59 office -- or</p> <p>19 the 50 offices -- or 49 --</p> <p>20 A. 49.</p> <p>21 Q. -- approximately, which regions of the state</p> <p>22 were they concentrated in?</p> <p>23 A. Concentrated or existed?</p> <p>24 Q. Where were they?</p> <p>25 A. DPS Regions 1A, 2 -- I'm sorry -- 1A, 1B, 2A,</p>
<p style="text-align: right;">250</p> <p>1 A. If I recall correctly, there was a -- an Excel</p> <p>2 spreadsheet that had -- it had the number -- it was a</p> <p>3 potential -- as it was explained to me, it was the --</p> <p>4 it was the number of potential Texans who might not</p> <p>5 have -- or might require an election certificate.</p> <p>6 Q. Was it a number in a certain geographic</p> <p>7 region? Just to the best of your recollection.</p> <p>8 A. Yeah. To the best of my recollection, it was</p> <p>9 a county list; and that was one column. And then there</p> <p>10 were numbers in another column. I can't remember much</p> <p>11 else other than that.</p> <p>12 Q. And did the Secretary of State's office</p> <p>13 generate that list?</p> <p>14 A. When I saw it, I was given that by my chain of</p> <p>15 command; so I don't know who generated it. I know that</p> <p>16 my chain of command gave it to me.</p> <p>17 Q. And gave it to you stating that it was a</p> <p>18 document from the Secretary of State's office, right?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. Do you know what those numbers were</p> <p>21 based on?</p> <p>22 A. Not more than what I've already told you is</p> <p>23 that it was -- it was the number -- the -- it was an</p> <p>24 estimate of the number of individual Texans in those</p> <p>25 counties who -- there was -- who they thought might</p>	<p style="text-align: right;">252</p> <p>1 2B, 3, 4, 6A, 6B.</p> <p>2 Q. So every region except Region 5, it sounds</p> <p>3 like?</p> <p>4 A. That's correct, yes.</p> <p>5 Q. Were there -- was there any particular part of</p> <p>6 the state or region in which they were concentrated?</p> <p>7 A. I -- I don't recall any. I mean, it was</p> <p>8 centered around population centers. They were dealing</p> <p>9 with people. So to the best of my recollection, it was</p> <p>10 based around where the people were.</p> <p>11 Q. Okay. That makes sense.</p> <p>12 Were there more of them near -- near big</p> <p>13 urban centers than in very, very rural areas?</p> <p>14 A. More of them?</p> <p>15 Q. More of these Saturday opened offices?</p> <p>16 A. The offices that were open on Saturdays were</p> <p>17 in the counties -- that was 'cause it was -- I did it</p> <p>18 by county, and the counties were selected or based on</p> <p>19 the population.</p> <p>20 Q. Okay.</p> <p>21 A. If that answers your question.</p> <p>22 Q. It does.</p> <p>23 A. Okay.</p> <p>24 Q. Is it fair to say that DPS locations that were</p> <p>25 in places with smaller populations were less likely to</p>

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<p style="text-align: right;">253</p> <p>1 have Saturday open hours?</p> <p>2 A. I'm not sure if that's an accurate statement,</p> <p>3 because we went on the -- we used the population by</p> <p>4 county. So Bell County would have -- and had offices</p> <p>5 that were open, you know; so parts of Bell County are</p> <p>6 rural. So when we broke it out, we broke it out by</p> <p>7 county. It wasn't -- it wasn't -- it was all the</p> <p>8 offices within a given county that were open.</p> <p>9 Q. Okay. So some counties had more than one</p> <p>10 office open for Saturday hours in this time period?</p> <p>11 A. Potentially, yes.</p> <p>12 Q. All right. So it looks to me from the past</p> <p>13 few documents that we've received that on Monday of</p> <p>14 that week you let the commanders know that Saturday</p> <p>15 hours were going into effect. And then on Monday and</p> <p>16 Tuesday, it sounds like you were working on figuring</p> <p>17 out which offices would actually be open. On Friday</p> <p>18 this press release goes out; and on Saturday, that's</p> <p>19 the first open Saturday hours.</p> <p>20 Does that sound about right from your</p> <p>21 recollection for that week?</p> <p>22 A. In order for me to answer specifically, I</p> <p>23 would want to see all the chain; but it sounds -- it</p> <p>24 sounds -- generally speaking, if what you've described</p> <p>25 is accurate, then generally speaking, yes.</p>	<p style="text-align: right;">255</p> <p>1 A. Only in the office that I've mentioned to you,</p> <p>2 Townhurst, because it was undergoing renovations.</p> <p>3 Q. But aside from Townhurst, everywhere else that</p> <p>4 you and your colleagues discussed wanted to have open</p> <p>5 and everywhere else that the Secretary of State</p> <p>6 requested be open ended up being open on that Saturday?</p> <p>7 A. To the best of the my knowledge, yes.</p> <p>8 Q. Okay.</p> <p>9</p> <p>10 MS. KORGAONKAR: Can we go off the record</p> <p>11 for one second?</p> <p>12 THE REPORTER: Off the record.</p> <p>13 (Discussion off the record.)</p> <p>14 THE REPORTER: Back on the record.</p> <p>15 (Exhibit No. 90 marked.)</p> <p>16 Q. (BY MS. KORGAONKAR) I will hand you</p> <p>17 Exhibit 90, which is Bates marked TEX-00462137 through</p> <p>18 2139. If you could just take a moment, and let me know</p> <p>19 when you're ready.</p> <p>20 A. Okay.</p> <p>21 Q. Have you seen this document before?</p> <p>22 A. I don't recall seeing this document.</p> <p>23 Q. So I wanted to draw your attention to the very</p> <p>24 first e-mail, which is at the bottom of the chain. It</p> <p>25 is from Janie Ramon to Keith Ingram with John Steen</p>
<p style="text-align: right;">254</p> <p>1 Q. And that information is just based on the last</p> <p>2 few e-mails that we have discussed today.</p> <p>3 A. We've looked at a lot of e-mails today.</p> <p>4 Q. I understand that.</p> <p>5 So was that a busy week for you at DPS?</p> <p>6 A. I don't know. I suppose.</p> <p>7 Q. Do you think it would be fair to say it was a</p> <p>8 busier week than usual, given that you had a big,</p> <p>9 different event occurring on Saturday?</p> <p>10 A. I leave the office at 7 o'clock every night</p> <p>11 anyway, so no. Sometimes I leave at 6:30 because I</p> <p>12 want to give myself a break.</p> <p>13 Q. Okay. Understood. Was -- were people rushing</p> <p>14 to accommodate those Saturday hours for that first</p> <p>15 week, at least? It seems like it would be a busy week.</p> <p>16 A. I don't -- I don't -- I don't recall it as</p> <p>17 being rushing. I was -- I was actually very pleased</p> <p>18 with our employees. They did what we wanted them to</p> <p>19 do, and they did it in a darn good way. And I was -- I</p> <p>20 was very satisfied with how they were doing it. And so</p> <p>21 I didn't perceive it as a busy week, necessarily.</p> <p>22 Q. Were there any offices that you-all had</p> <p>23 discussed or maybe wanted to have open for that first</p> <p>24 set of Saturday hours that ultimately it didn't work</p> <p>25 out in?</p>	<p style="text-align: right;">256</p> <p>1 copied --</p> <p>2 A. Okay.</p> <p>3 Q. -- from October 7th, 2013, at 10:18 a.m. So</p> <p>4 in this, Ms. Ramon states to Mr. Ingram and Secretary</p> <p>5 Steen, "Would like to request your assistance." And</p> <p>6 then she states that she understands that opening --</p> <p>7 sorry -- strike that.</p> <p>8 "I understand that this has to be</p> <p>9 approved by SOS. We're currently trying to get some</p> <p>10 Saturday openings of the local DPS office for election</p> <p>11 certificates"; is that right?</p> <p>12 A. That's what it says.</p> <p>13 Q. Okay. In the e-mail, when Mr. Ingram responds</p> <p>14 to her that's just above it.</p> <p>15 A. Hold on a second.</p> <p>16 Q. -- at --</p> <p>17 A. Give me a second.</p> <p>18 Q. Sure.</p> <p>19 A. Okay. I'm with you.</p> <p>20 Q. Okay. So this is the 11:03 a.m. e-mail in the</p> <p>21 chain from Mr. Ingram in response to Ms. Ramon?</p> <p>22 A. I see that.</p> <p>23 Q. He states, "Thank you for letting us know of</p> <p>24 your request to DPS. We don't have any ability to</p> <p>25 request Saturday openings in Val Verde County, but we</p>

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<p style="text-align: right;">257</p> <p>1 are scheduled to bring mobile EICs units to your county</p> <p>2 on October 31st to November 1st."</p> <p>3 Is that right?</p> <p>4 A. Happy Halloween, yes.</p> <p>5 Q. Okay. So starting with Ms. Ramon's e-mail,</p> <p>6 she indicates that the Secretary of State's office</p> <p>7 needs to approve requests for DPS offices.</p> <p>8 A. Okay.</p> <p>9 Q. To be open on certain dates.</p> <p>10 Is that how you understand it as well?</p> <p>11 A. I was informed --</p> <p>12 MR. KEISTER: Object to speculation.</p> <p>13 Q. (BY MS. KORGONKAR) I'm asking how you</p> <p>14 understand it, not what she necessarily meant.</p> <p>15 MR. KEISTER: I'll object. It's</p> <p>16 speculation. He's not -- he's not a participant, so --</p> <p>17 Q. (BY MS. KORGONKAR) Right. But you don't</p> <p>18 have to speculate when it comes to what you take this</p> <p>19 to mean. That's all I'll asking you.</p> <p>20 How do you understand this?</p> <p>21 A. Okay. Give me a second.</p> <p>22 Q. Sure.</p> <p>23 A. I understand that this has to be approved by</p> <p>24 SOS, yeah. Yes.</p> <p>25 Q. So do -- did you understand her request also</p>	<p style="text-align: right;">259</p> <p>1 wanted to open on Saturday hours that wasn't already</p> <p>2 within the counties specified by the Secretary of</p> <p>3 State's office, did they need to get approval from DPS</p> <p>4 from you?</p> <p>5 A. Assuming they had an office in the county,</p> <p>6 then they would have to -- it wouldn't so much be -- I</p> <p>7 suppose you could categorize it as approval but the</p> <p>8 employees worked for us and we would have to authorize</p> <p>9 them to go into the office. So if that's how you</p> <p>10 categorize approval, then the answer to your question</p> <p>11 is yes.</p> <p>12 Q. Okay. And then turning to Mr. Ingram's</p> <p>13 response, as I read before, he stated, "We don't have</p> <p>14 any ability to request Saturday openings in Val Verde</p> <p>15 County."</p> <p>16 A. Okay.</p> <p>17 Q. Is that accurate, as you understand it?</p> <p>18 A. Well, they can request it.</p> <p>19 Q. Did they have the ability to require DPS to</p> <p>20 open certain offices for Saturday hours?</p> <p>21 A. Does the Secretary of State have the ability</p> <p>22 to require DPS to open an office on a Saturday? Not to</p> <p>23 my knowledge.</p> <p>24 Q. But didn't the previous e-mails establish that</p> <p>25 there were certain offices that the Secretary of</p>
<p style="text-align: right;">258</p> <p>1 to have had to be approved by the Secretary of State?</p> <p>2 A. Well, I wasn't e-mailed the request. But what</p> <p>3 you've handed me, it looks -- it appears that they have</p> <p>4 to ask the Secretary of State. This a county clerk in</p> <p>5 Val Verde.</p> <p>6 Q. Right. I understand that.</p> <p>7 So my question is, do you also think that</p> <p>8 that is the correct process that she would have had to</p> <p>9 go through?</p> <p>10 MR. KEISTER: Objection, calls for</p> <p>11 speculation.</p> <p>12 THE WITNESS: I believe there would have</p> <p>13 to be some -- the counties that we -- this is for</p> <p>14 Saturday openings?</p> <p>15 They would have to have some discussion</p> <p>16 with the Secretary of State's office.</p> <p>17 Q. (BY MS. KORGONKAR) Okay.</p> <p>18 A. Yeah.</p> <p>19 Q. Would you have also -- "you" being DPS --</p> <p>20 needed to approve such a thing, or would it only have</p> <p>21 been the Secretary of State's office?</p> <p>22 A. Well, the selection of Saturday offices was</p> <p>23 based on other -- other criteria than requests.</p> <p>24 Q. But elective Saturday hours for a county that</p> <p>25 may not have been selected. If the county voluntarily</p>	<p style="text-align: right;">260</p> <p>1 State's office requested DPS to open on Saturday?</p> <p>2 A. Yes.</p> <p>3 Q. So to me that sounds in consistent. Maybe I'm</p> <p>4 just not understanding.</p> <p>5 A. I think you don't understand.</p> <p>6 Q. Okay.</p> <p>7 A. It's because the offices that were selected</p> <p>8 for Saturday were based on the population of those</p> <p>9 counties.</p> <p>10 Q. But the Secretary of State's office selected</p> <p>11 them?</p> <p>12 A. Based on the population of those counties.</p> <p>13 Q. So could the Secretary of State's office have</p> <p>14 selected different counties based on something else, if</p> <p>15 it had chosen to?</p> <p>16 A. I suppose they could have.</p> <p>17 Q. Based on something else that even made sense,</p> <p>18 let's say?</p> <p>19 A. I would say that having an office open on</p> <p>20 extended hours near the bulk of the population</p> <p>21 certainly makes sense to me.</p> <p>22 Q. Right. But there's a number of other things</p> <p>23 that could have made sense. So I'm saying, you</p> <p>24 agree -- or tell me if you disagree that the Secretary</p> <p>25 of State's office could have instructed DPS to open 13</p>

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<p style="text-align: right;">261</p> <p>1 different county offices if under some other criteria</p> <p>2 those offices would have made sense to open, right?</p> <p>3 A. I suppose so.</p> <p>4 Q. So then is it correct that the Secretary of</p> <p>5 State's office doesn't have the ability to request</p> <p>6 Saturday openings in Val Verde County?</p> <p>7 A. They can request them.</p> <p>8 Q. Okay. And did the Secretary of State's office</p> <p>9 request certain other county offices to be open on</p> <p>10 Saturdays?</p> <p>11 A. Not to my knowledge.</p> <p>12 Q. The 13 counties from the previous --</p> <p>13 A. Oh, yeah. Those ones, yes.</p> <p>14 May I -- so let's be clear. The</p> <p>15 Secretary of State asked for driver licenses to be</p> <p>16 opened in certain counties, not county offices.</p> <p>17 Q. Okay.</p> <p>18 A. Okay.</p> <p>19 Q. Okay. And just looking through the rest of</p> <p>20 the exchange, which goes over to the first page, it</p> <p>21 doesn't appear to me in this chain that there are any</p> <p>22 DPS people on this e-mail; is that right?</p> <p>23 A. I believe that to be correct, yes.</p> <p>24 Q. Did this e-mail, to your knowledge, ever get</p> <p>25 forwarded to DPS?</p>	<p style="text-align: right;">263</p> <p>1 What was the process of establishing</p> <p>2 Saturday hours for these offices this May?</p> <p>3 A. The process we -- the process we used to open</p> <p>4 these offices was that these were the offices that we</p> <p>5 had opened on Saturdays previously.</p> <p>6 Q. "Previously" meaning what?</p> <p>7 A. Previous election cycles.</p> <p>8 Q. In the fall of 2013?</p> <p>9 A. With the exception of Townhurst. And I</p> <p>10 believe there's an office in Dallas, which is opened.</p> <p>11 I can't -- I can't remember if it's Dallas East or</p> <p>12 Dallas Southwest, but there's an office that we've</p> <p>13 opened since the 2013 to now. And because it's in</p> <p>14 Dallas County, it's open.</p> <p>15 Q. Okay. Like a brand-new office?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. So because this is based on the offices</p> <p>18 that were open in the fall 2013 cycle, that means that</p> <p>19 ultimately this is based on that same set of data from</p> <p>20 the Secretary of State's office; is that right?</p> <p>21 A. That's correct.</p> <p>22 Q. Okay. Besides the period of time in the fall</p> <p>23 of 2011 preceding the November 2013 elections, and</p> <p>24 besides the period of time right now, this May, when</p> <p>25 there's Saturday hours, have there been any other</p>
<p style="text-align: right;">262</p> <p>1 A. I don't know.</p> <p>2 MS. KORGAKONKAR: The next document,</p> <p>3 Exhibit 91. Yes.</p> <p>4 (Exhibit No. 91 marked.)</p> <p>5 Q. (BY MS. KORGAKONKAR) I'm handing you</p> <p>6 Exhibit 91, which is not Bates marked. Just take a</p> <p>7 minute to look at it.</p> <p>8 A. Okay.</p> <p>9 Q. So this is a printout from earlier this week</p> <p>10 from the DPS website. It's a document that states the</p> <p>11 listed driver license offices will be opening the</p> <p>12 following Saturdays; May 10th, 17th, and 24th.</p> <p>13 A. Yes, that's correct.</p> <p>14 Q. Can you tell me when or approximately when</p> <p>15 this list would have been posted on your website?</p> <p>16 A. No. It would have been posted some -- because</p> <p>17 we started our -- sometime after the 28th of April is</p> <p>18 all I can tell you.</p> <p>19 Q. Okay. And why the 28th of April?</p> <p>20 A. That's the date when we started to have our</p> <p>21 daily EIC conference calls.</p> <p>22 Q. Okay. And to your knowledge, is this list</p> <p>23 complete as of today?</p> <p>24 A. Yes.</p> <p>25 Q. And was the -- well, strike that.</p>	<p style="text-align: right;">264</p> <p>1 Saturday hours for people to get EICs?</p> <p>2 A. Outside of an election cycle?</p> <p>3 Q. I guess both outside of an election cycle; and</p> <p>4 also, are those are those the only two election cycles</p> <p>5 when Saturday hours were instituted?</p> <p>6 A. To the best of my recollection, we've had a</p> <p>7 constitutional election, we've had primaries, and we're</p> <p>8 in the midst of a runoff. And if I'm not mistaken, to</p> <p>9 the best of my recollection, we've had Saturday</p> <p>10 operations during each one of those three election</p> <p>11 cycles.</p> <p>12 Q. All right. And have there been other Saturday</p> <p>13 hours since last September, let say?</p> <p>14 A. Outside of the times that I just described as</p> <p>15 election cycles?</p> <p>16 Q. Correct.</p> <p>17 A. No.</p> <p>18 Q. Okay. Do you know if this notice that we're</p> <p>19 looking at now is distributed in all of these counties?</p> <p>20 A. This notice? This notice is posted on our</p> <p>21 website.</p> <p>22 Q. And is there a different notice that goes to</p> <p>23 the counties from DPS?</p> <p>24 A. I don't know.</p> <p>25 Q. Is it upon the local DPS offices to publicize</p>

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<p style="text-align: right;">265</p> <p>1 the Saturday hours?</p> <p>2 A. That's media and communications. I don't</p> <p>3 know. I don't know their -- I don't know how they do</p> <p>4 business. It's not my business to know their business.</p> <p>5 Q. Okay. All right.</p> <p>6 MS. KORGAONKAR: All right. You want to</p> <p>7 take a quick break?</p> <p>8 THE REPORTER: Off the record.</p> <p>9 (Recess from 4:15 p.m. to 4:27 p.m.)</p> <p>10 THE REPORTER: Back on the record.</p> <p>11 Q. (BY MS. KORGAONKAR) Okay. I'm going to shift</p> <p>12 gears just a little now. I want to talk about the</p> <p>13 mobile EICs units.</p> <p>14 A. Okay.</p> <p>15 Q. Could you just tell me what a mobile EIC unit</p> <p>16 is?</p> <p>17 A. Okay. We call a mobile EIC unit -- I had</p> <p>18 described it before. I'll do it again. It's nothing</p> <p>19 more than a term we use for a -- called collection</p> <p>20 equipment. It's -- roughly speaking, it's a laptop.</p> <p>21 There's a printer. There's cartridges, and then</p> <p>22 there's the -- thank you -- the digital camera, the</p> <p>23 tripod for the digital camera. There's the blue screen</p> <p>24 that we have to use as a backdrop for when we take</p> <p>25 applicant pictures. There are forms. There's blank</p>	<p style="text-align: right;">267</p> <p>1 A. Within the -- within the resources that we</p> <p>2 have available, yes.</p> <p>3 Q. Okay. Is a mobile unit the same thing as a</p> <p>4 mobile light unit?</p> <p>5 A. Yes.</p> <p>6 Q. They're the same?</p> <p>7 A. Yes. The mobile light and -- you've heard the</p> <p>8 term "pet peeve"?</p> <p>9 Q. I have, indeed.</p> <p>10 A. The making -- calling things names like mobile</p> <p>11 light is one of my pet peeves, and -- but essentially,</p> <p>12 the mobile light is a mobile unit, yes.</p> <p>13 Q. Is there any difference between the two?</p> <p>14 A. Someone put it on slide, and everybody refers</p> <p>15 to it as that. Other than somebody thought it was a</p> <p>16 great ideal to call them that, no.</p> <p>17 Q. So there's never been a substantive</p> <p>18 distinction or difference between these two things.</p> <p>19 It's just what people call them.</p> <p>20 A. That's right.</p> <p>21 Q. Okay. When did DPS first learn of mobile</p> <p>22 units for EICs?</p> <p>23 A. I'm going need you to rephrase that question,</p> <p>24 please.</p> <p>25 Q. When did the idea of -- of issuing mobile</p>
<p style="text-align: right;">266</p> <p>1 sheets of paper, and there -- it's containerized inside</p> <p>2 of a tub. There's -- for the units that we -- that DPS</p> <p>3 provides that -- for use of DPS employees, there's a</p> <p>4 cell phone that's a DPS-provided cell phone. For the</p> <p>5 county units, there's not a DPS-provided cell phone.</p> <p>6 It's the major distinction between the county EIC,</p> <p>7 mobile EICs units, and the DPS mobile EIC unit.</p> <p>8 Q. Is there a car or a vehicle associated with</p> <p>9 the mobile unit?</p> <p>10 (Phone buzzing.)</p> <p>11 THE WITNESS: It's our friend.</p> <p>12 No.</p> <p>13 Q. (BY MS. KORGAONKAR) So to get to wherever a</p> <p>14 mobile station is set up, employees, whoever they are,</p> <p>15 use their own cars generally?</p> <p>16 A. I misunderstood your question. I understood</p> <p>17 your question to be: Is a car associated with a</p> <p>18 specific unit? In other words, is that part of the</p> <p>19 unit set? And the answer to that question is no.</p> <p>20 Q. Okay.</p> <p>21 A. The Department of Public Safety, insofar as</p> <p>22 the resources that we have available, provides fleet</p> <p>23 vehicles for the employees to go and issue EICs.</p> <p>24 Q. And are those fleet vehicles available any</p> <p>25 type a DPS employee needs to make it to a mobile unit?</p>	<p style="text-align: right;">268</p> <p>1 units first occur?</p> <p>2 A. Issuing EICs through mobile units?</p> <p>3 Q. Correct.</p> <p>4 A. Okay. I don't remember exactly what day. It</p> <p>5 was -- it was sometime during the constitutional</p> <p>6 election cycle, and the -- the -- the initial</p> <p>7 suggestion that was in the September, that fall, the</p> <p>8 period of 2013, the initial suggestion was that we use</p> <p>9 one of our six disaster response units to issue EICs.</p> <p>10 And there are a variety of reasons that we didn't want</p> <p>11 to do that. And we decided to -- to enter into an</p> <p>12 agreement with the Secretary of State, and I don't</p> <p>13 remember who paid for them. But -- but we constituted</p> <p>14 25 sets of mobile units; and then later, on we</p> <p>15 constituted approximately 80 sets of mobile units.</p> <p>16 Q. Okay. And did the idea generate within DPS,</p> <p>17 or did it generate from the Secretary of State's</p> <p>18 office?</p> <p>19 A. I don't know -- I don't know where the idea</p> <p>20 generated from.</p> <p>21 Q. Okay. And whose, to the best of your</p> <p>22 recollection, idea was it to use one of those disaster</p> <p>23 response units?</p> <p>24 A. I don't recall.</p> <p>25 Q. Who all was involved in the -- in the planning</p>

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<p style="text-align: right;">269</p> <p>1 in fall of 2013 to involve -- strike that -- the</p> <p>2 planning in 2013 to create and then to dispatch mobile</p> <p>3 EIC units? By "who," I mean which offices.</p> <p>4 A. Well, the driver license division of DPS,</p> <p>5 certainly, we were the executor of that. I cannot</p> <p>6 recall if there was discussion between DPS and the</p> <p>7 Secretary of State about mobile units. I just can't.</p> <p>8 I don't recall.</p> <p>9 Q. Do you recall whether the Governor's office</p> <p>10 was involved?</p> <p>11 A. I don't know about that.</p> <p>12 Q. Do you recall whether the Lieutenant</p> <p>13 Governor's office was involved?</p> <p>14 A. I don't know about that either.</p> <p>15 Q. What was the goal of the mobile EIC units?</p> <p>16 A. The goal was to provide Texans, who lived in</p> <p>17 those 80 -- or 79 counties that I talked about, the</p> <p>18 opportunity to -- to get an EIC.</p> <p>19 Q. What were some of the potential difficulties</p> <p>20 discussed when you were planning this and implementing</p> <p>21 the program?</p> <p>22 A. Well, we had to -- we had to get the</p> <p>23 resources. We had to get the money.</p> <p>24 Q. Uh-huh.</p> <p>25 A. And of course, there's a -- because we're a</p>	<p style="text-align: right;">271</p> <p>1 had a bench test. We had to make sure that all the</p> <p>2 peripherals worked and everything like that. So there</p> <p>3 was --</p> <p>4 Q. Okay. And you mentioned that money was one</p> <p>5 potential concern, but clearly the money came.</p> <p>6 Do you know where it came from?</p> <p>7 A. No. We were told to -- Steve Bell and I were</p> <p>8 told to put it on our purchase cards, and that's what</p> <p>9 we did.</p> <p>10 Q. Okay. And is your purchase card a credit card</p> <p>11 that you have for your employment at DPS?</p> <p>12 A. It's -- yeah, it's a P card. I'm authorized</p> <p>13 to use it under certain circumstances and within</p> <p>14 certain spending limits. Steve did most of the buying</p> <p>15 because he was -- as I said before, he was the person</p> <p>16 who dealt with logistics. And so I was under -- I was</p> <p>17 operations, and he was logistics.</p> <p>18 Q. Do you know whether ultimately the amounts</p> <p>19 that you-all paid for the equipment came out of DPS's</p> <p>20 budget, or was DPS reimbursed by the Secretary of State</p> <p>21 or any other agency?</p> <p>22 A. I have no idea.</p> <p>23 Q. And so you mentioned money and the difficult</p> <p>24 IT work that needed to be done as two of the --</p> <p>25 A. Well, there were -- there were a challenge</p>
<p style="text-align: right;">270</p> <p>1 government agency, there's a process it needs to go</p> <p>2 through in order to get the money. We had to -- we had</p> <p>3 to purchase the computers themselves, and we had to --</p> <p>4 we had to ensure that the computers were able to do</p> <p>5 what we wanted them to do. And so DPS IT has IT</p> <p>6 security. I'm not an IT guy, but I know they have</p> <p>7 certain security requirements. So those computers had</p> <p>8 to meet those security requirements. They also had to</p> <p>9 configure the application, the desktop application to</p> <p>10 enable to -- or to make the screens that were displayed</p> <p>11 for the CSRs to look as much like the screens that are</p> <p>12 displayed in our brick-and-mortar offices as possible</p> <p>13 so that -- so that we wouldn't have to train people to</p> <p>14 do a completely different system and would be as</p> <p>15 similar to what they had already done as possible.</p> <p>16 So there was that -- the IT and the</p> <p>17 IT-related issues of getting all that done under a</p> <p>18 relatively short period of time. I believe it was ten</p> <p>19 days or so. We had to -- we had to -- we received the</p> <p>20 computers from the vendors. It was a lot of logistics.</p> <p>21 We received the computers from the vendors. They had</p> <p>22 to be imaged. They had to be -- the application had to</p> <p>23 be loaded on the computer. The physical loading all</p> <p>24 the applications takes time when you're dealing with 25</p> <p>25 computers. You know, there's going to be a problem. We</p>	<p style="text-align: right;">272</p> <p>1 that needed to be done. We needed to receive the</p> <p>2 equipment. We needed to configure the equipment and</p> <p>3 the boxes that I talked about before.</p> <p>4 Q. Right.</p> <p>5 A. We had to physically bring the CSRs to Austin</p> <p>6 and conduct a training class. And then we dispatched</p> <p>7 them to their home regions with the equipment in hand</p> <p>8 after they had -- after they had inventoried it and</p> <p>9 made sure that it all ran.</p> <p>10 Q. And was there ever any concern about which</p> <p>11 would be the right places to receive equipment for</p> <p>12 mobile EIC units?</p> <p>13 A. I don't understand what you're asking me.</p> <p>14 Q. Well, how were the places selected?</p> <p>15 A. The -- the locations for EIC operations were</p> <p>16 selected based on that they were the 80 counties in the</p> <p>17 state that didn't have driver license offices.</p> <p>18 Q. So what about the initial 25? Maybe I'm</p> <p>19 getting different phases confused.</p> <p>20 A. Okay. So it's very easy, to my mind anyway.</p> <p>21 Nobody else seems to --</p> <p>22 Okay. Phase 1 --</p> <p>23 Q. Uh-huh.</p> <p>24 A. -- Saturday opening.</p> <p>25 Q. So Phase 1 has nothing to do with mobile EIC</p>

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<p style="text-align: right;">273</p> <p>1 units?</p> <p>2 A. No, ma'am.</p> <p>3 Q. Is at the Saturday openings that we discussed</p> <p>4 earlier?</p> <p>5 A. Yes.</p> <p>6 Q. Okay.</p> <p>7 A. Phase 2, 25 Secretary of State EIC mobile</p> <p>8 units.</p> <p>9 Q. Okay.</p> <p>10 A. Phase 3 are the 80 county units -- about 80, I</p> <p>11 think. I can't remember exactly how many of them there</p> <p>12 were. So that allowed me to organize the operation</p> <p>13 within my own mind.</p> <p>14 Q. And for my clarification, the 80 county units</p> <p>15 are still considered mobile units?</p> <p>16 A. Well, yes, because -- because -- because of</p> <p>17 the equipment that comprises the unit, yes.</p> <p>18 Q. But the -- those 80 units, are they themselves</p> <p>19 ambulatory; or are they set up in one spot and they</p> <p>20 stay in that spot in the county?</p> <p>21 A. You mean do they get up and walk around?</p> <p>22 Q. Do they get moved around?</p> <p>23 A. They can be moved to wherever the county</p> <p>24 determines that they want to issue EICs. If the county</p> <p>25 wants to move them, then the county can do that,</p>	<p style="text-align: right;">275</p> <p>1 Q. Okay. And did you, DPS, have any role in the</p> <p>2 site selection for those Phase 2 units?</p> <p>3 A. I'm trying to answer your question. We could,</p> <p>4 is the short answer. The Secretary of State would tell</p> <p>5 us to go to a given location -- and I'll use an</p> <p>6 example. 123 Main Street, Val Verde, Texas -- and we</p> <p>7 would send employees to that location and they would</p> <p>8 make sure that the people at that location knew that we</p> <p>9 were coming, okay, and that they had the -- the</p> <p>10 infrastructure quote, unquote that we needed. And the</p> <p>11 infrastructure was a chair -- you know, chairs and a</p> <p>12 table and a plug. And once they had done that, then</p> <p>13 that site -- we would go to that site.</p> <p>14 Q. Okay. And for the 25, is it right that those</p> <p>15 were manned by Secretary of State employees plus a DPS</p> <p>16 employee, maybe?</p> <p>17 A. That's not an accurate statement, no.</p> <p>18 Q. Okay. Who were they manned by?</p> <p>19 A. So the 25 Phase 2 units have up, until this</p> <p>20 election cycle that we're currently in --</p> <p>21 I -- it's possible that the Secretary of</p> <p>22 State units might have some employees at one of those</p> <p>23 25 -- with one of those 25 units but not during the --</p> <p>24 not during the fall elections. It was only after we</p> <p>25 provided them with training. I just don't know.</p>
<p style="text-align: right;">274</p> <p>1 because the units -- because the set -- the equipment</p> <p>2 set they've been given enables them to do that; and</p> <p>3 we've had counties ask about that. The answer is, if</p> <p>4 that's what you want to do, it's your equipment to use</p> <p>5 for the time being.</p> <p>6 Q. So to your knowledge, of those 80 Phase 3</p> <p>7 units, do the counties generally set them up in one --</p> <p>8 in one spot in a courthouse, for example, and keep it</p> <p>9 there; or do the counties sometimes take them outside</p> <p>10 of a Target?</p> <p>11 A. Outside of a target.</p> <p>12 Q. A Target or a grocery store or to --</p> <p>13 A. Oh, you're talking about a store.</p> <p>14 Q. Yes.</p> <p>15 A. Sorry. I'll be honest with you, I don't know</p> <p>16 what the counties do with them. I've never visited a</p> <p>17 county to -- to see their EIC units. It's just -- I</p> <p>18 couldn't speculate on that.</p> <p>19 Q. Okay. And to your knowledge, for the 25, the</p> <p>20 Phase 2 --</p> <p>21 A. Uh-huh.</p> <p>22 Q. -- are those ones set up outside of shops and</p> <p>23 places like that where people can go?</p> <p>24 A. So the -- the site selection for the Phase 2</p> <p>25 units was given to us by the Secretary of State.</p>	<p style="text-align: right;">276</p> <p>1 Q. Okay. Is it correct that the 80 county units</p> <p>2 are manned by county employees?</p> <p>3 A. That's not correct.</p> <p>4 Q. Okay. What is correct?</p> <p>5 A. What is correct is that the 55 units that</p> <p>6 we've sent to the counties who have signed the MOUs and</p> <p>7 who have received training are being crewed by county</p> <p>8 employees. The delta -- the difference between</p> <p>9 whatever, 80 minus 55, is those are being maintained by</p> <p>10 DPS. We have control of those units.</p> <p>11 Q. Is the only difference between the 55 and the</p> <p>12 remaining balance, that for the 55, those county</p> <p>13 employees have been trained and have gone through that</p> <p>14 and signed the MOU?</p> <p>15 A. Yes.</p> <p>16 Q. And for these three phases -- well, strike</p> <p>17 that. We've covered the time period associated with</p> <p>18 Phase 1.</p> <p>19 But can you let me know what the time</p> <p>20 period is associated with Phase 2? Are those ongoing?</p> <p>21 A. When I refer to those phases, it was during</p> <p>22 the fall election that ended in November. And the only</p> <p>23 reason I did that is because we had a lot of moving</p> <p>24 parts and because it allowed me to separate those</p> <p>25 moving parts in my mind. When I was talking to people,</p>

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<p style="text-align: right;">277</p> <p>1 I would -- I would refer to things as Phase 1, Phase 2,</p> <p>2 Phase 3, because that's been my experience. And it was</p> <p>3 also how I wanted to get all of our employees on the</p> <p>4 same sheet of music, so to speak, so they would</p> <p>5 understand. That way we get away from the mobile light</p> <p>6 colloquialism.</p> <p>7 Q. Are the Phase 2 units still out there?</p> <p>8 A. The Phase 2 units are currently still being</p> <p>9 used, yes.</p> <p>10 Q. Are they still in the same places where they</p> <p>11 started?</p> <p>12 A. I --</p> <p>13 MR. KEISTER: Objection, vague.</p> <p>14 THE WITNESS: I don't know. I mean,</p> <p>15 they're in the field. Okay. They've -- Steve Bell</p> <p>16 keeps track of which -- specifically which units are</p> <p>17 where. So the broad answer is yes, they're still out</p> <p>18 in the field; but I can't give you granularity on which</p> <p>19 units and which office.</p> <p>20 Q. And the Phase 3 units, when did those start</p> <p>21 being operated, approximately?</p> <p>22 A. I don't recall. I believe it was -- it was</p> <p>23 associated with the same constitutional election. I</p> <p>24 believe we had Phase 1, 2, and 3; and they were running</p> <p>25 concurrently.</p>	<p style="text-align: right;">279</p> <p>1 A. Okay.</p> <p>2 Q. When did phases get phased out?</p> <p>3 A. I'm sorry. We stopped referring to things in</p> <p>4 phases at the November election, whenever that was. It</p> <p>5 was, what, the 11th or the 12th, I believe. Once we</p> <p>6 stopped that initial constitutional election, that was</p> <p>7 the end of it because we didn't need to. We just</p> <p>8 had -- all we had were EIC units that were in the</p> <p>9 counties; and everything else we didn't need to</p> <p>10 separate things in people's minds.</p> <p>11 Q. Okay. I will hand you Exhibit 92.</p> <p>12 (Exhibit No. 92 marked.)</p> <p>13 THE WITNESS: Thank you very much.</p> <p>14 Q. (BY MS. KORGAONKAR) This exhibit is Bates</p> <p>15 marked TEX-0511208 to 209. And let me know when you've</p> <p>16 had a minute to review.</p> <p>17 A. Okay.</p> <p>18 Q. So I wanted to turn your attention to the</p> <p>19 initial e-mail in the chain, which is dated</p> <p>20 September 24th, 2013, from 3:18 p.m.?</p> <p>21 A. Yes.</p> <p>22 Q. It's an e-mail from you.</p> <p>23 A. Uh-huh.</p> <p>24 Q. The subject is "Rumor control election</p> <p>25 certificates," and it's been designated with an</p>
<p style="text-align: right;">278</p> <p>1 Q. Okay. Is it correct that Phase 3 units are</p> <p>2 still operating now?</p> <p>3 A. That's an accurate statement, yes.</p> <p>4 Q. That was the clearest description of phases?</p> <p>5 A. That's what --</p> <p>6 Q. I appreciate that.</p> <p>7 A. That's what I've been told.</p> <p>8 Q. Thank you.</p> <p>9 You've been -- you've been kicking that</p> <p>10 one around for some time.</p> <p>11 A. All it did is it -- because we had a lot of</p> <p>12 things that were going on, it allowed me to</p> <p>13 intellectually separate things that were happening so</p> <p>14 that when I was talking to certain people about certain</p> <p>15 things, I can say, "Well, that's a Phase 1 issue." Got</p> <p>16 that. Because we would have different issues on</p> <p>17 different phases. And then within the Army lexicon is</p> <p>18 a that phases can run concurrently. They can overlap,</p> <p>19 or they could be sequential. In this case, they all</p> <p>20 overlapped; so that's --</p> <p>21 Q. Thank you. We appreciate that.</p> <p>22 A. Just to be clear, is that we're no longer</p> <p>23 referring to any phases during our current election</p> <p>24 cycle.</p> <p>25 Q. Okay.</p>	<p style="text-align: right;">280</p> <p>1 importance level of high. In the first sentence you</p> <p>2 write, "Managers, I'm trying to control some rumors,</p> <p>3 There's a change in the way we will do EIC operations</p> <p>4 that will impact your regions."</p> <p>5 So I just wanted to know, first of all,</p> <p>6 what the rumors are, as you recall them.</p> <p>7 A. I'm sorry. I can't recall anything right now.</p> <p>8 Q. Okay. And does reading the rest of the chain</p> <p>9 maybe refresh your recollection?</p> <p>10 A. Well, let's see. (Witness reading.)</p> <p>11 Only that it must deal with something</p> <p>12 with county units and these counties. Although I would</p> <p>13 like to point out that previously I told you there were</p> <p>14 78 counties. Okay? And this here says 79. In</p> <p>15 reality, Kimball County had opened an office right</p> <p>16 around this time period. So there was some minor</p> <p>17 confusion whether Kimball was a county with a driver</p> <p>18 license or not; and some people thought it was and</p> <p>19 thought it wasn't. Kimball County has an office in</p> <p>20 there. It's not counted as one of the 78.</p> <p>21 Q. Understood. So with respect to the rumors?</p> <p>22 A. All I can -- the only illumination I can give</p> <p>23 you is that it must -- it must have had something to do</p> <p>24 with -- with these mobile units.</p> <p>25 Q. And your next sentence, "There's a change in</p>

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<p style="text-align: right;">281</p> <p>1 the way we'll do EIC operations that will impact your</p> <p>2 regions."</p> <p>3 A. Yes.</p> <p>4 Q. What was that change?</p> <p>5 A. The changes as loaded out -- as below. So</p> <p>6 your facilitators and assistant manager will need to be</p> <p>7 trained by ITS -- stands for Innovation and Tech</p> <p>8 Solutions, people on the new EIC system for the new</p> <p>9 computers. So all that -- all that deals with is that</p> <p>10 we're going to get the 79 Phase 3, 78 Phase 3 county</p> <p>11 units; and we're going to shift the responsibility for</p> <p>12 training. We're going to have distributed training.</p> <p>13 Q. What is "distributed training"?</p> <p>14 A. Distributed training is that we're telling the</p> <p>15 facilitator, who is an employee who is a resident in a</p> <p>16 county -- or I'm sorry -- a DPS region that they're</p> <p>17 responsible to train the county -- the county</p> <p>18 employees. So we'll provide the training to the</p> <p>19 facilitator, and the facilitator will provide the</p> <p>20 training to the County. What that allows us to do is</p> <p>21 to train much faster.</p> <p>22 Q. And is it correct that previously everyone</p> <p>23 getting trained would have been trained here in Austin?</p> <p>24 A. It is, but only when you -- but in order to --</p> <p>25 in order for that -- you have to understand that prior</p>	<p style="text-align: right;">283</p> <p>1 A. Yes.</p> <p>2 Q. What is it?</p> <p>3 A. Going from the bottom up, this is an e-mail</p> <p>4 that my counterpart, Steve Bell, sent out; and he sent</p> <p>5 it to the regional managers for regions 1 and 2. And</p> <p>6 it just says that we're going to set up these 25 units.</p> <p>7 And then later on in the e-mail, there's some other</p> <p>8 information from a guy named -- DPS employee named Bob</p> <p>9 Meyers. Bob Meyers is one of our training people, and</p> <p>10 he provides the -- the -- some -- some specifics for</p> <p>11 training, when we're going to do the training.</p> <p>12 And then the very top is from Deborah</p> <p>13 Pitzer. Deborah Pitzer is an assistant manager in</p> <p>14 Region 1B, and she just provides the names of the</p> <p>15 employees who are going to travel to Austin and receive</p> <p>16 the training.</p> <p>17 Q. And at this time period, with this --</p> <p>18 A. September.</p> <p>19 Q. -- the end of September --</p> <p>20 A. Yes.</p> <p>21 Q. -- do you know how many EICs were being</p> <p>22 processed at that point?</p> <p>23 A. I don't know.</p> <p>24 Q. And I just wanted to ask you a question about</p> <p>25 the first e-mail -- the first sentence, rather, in</p>
<p style="text-align: right;">282</p> <p>1 to this the only people that we had trained were DPS</p> <p>2 employees. So Phase 2, we had a new system. We</p> <p>3 brought the people who were going to operate the</p> <p>4 system, and we conduct the training in a central</p> <p>5 location. Okay? This is Phase 3 now; and since there</p> <p>6 are a large number of counties that will receive</p> <p>7 training in a distributed manner, it made more sense</p> <p>8 for us to go ahead and train the trainer.</p> <p>9 Q. Okay. And what was the difference in the --</p> <p>10 in the two computer systems, the old one versus the new</p> <p>11 one, as of this date?</p> <p>12 A. When I refer to the new computers, it's merely</p> <p>13 that they're -- that they're computers that were</p> <p>14 purchased. There should be -- and to the best of my</p> <p>15 knowledge, the laptops that we purchased to send out</p> <p>16 for Phase 2 and for Phase 3 were the same model of Dell</p> <p>17 or whatever they were. So when I say -- when I refer</p> <p>18 to "new computers," it's not a new computer system.</p> <p>19 It's merely they've purchase a new computer.</p> <p>20 Q. Okay. I have another document.</p> <p>21 (Exhibit No. 93 marked.)</p> <p>22 Q. (BY MS. KORGAKONKAR) So Exhibit 93 is Bates</p> <p>23 stamped TEX-0511590 through 591.</p> <p>24 A. Okay.</p> <p>25 Q. Okay. Do you recognize this e-mail?</p>	<p style="text-align: right;">284</p> <p>1 Mr. Bell's initial e-mail.</p> <p>2 A. Yes.</p> <p>3 Q. He writes, "We are going to be required by the</p> <p>4 Secretary of State's office to deploy up to 25 mobile</p> <p>5 light EIC units."</p> <p>6 My question about this sentence is, he</p> <p>7 has stated "required by the Secretary of State's</p> <p>8 office." Is that how DPS understood the -- the chain</p> <p>9 of command when it came to the 25 units in September?</p> <p>10 A. You have to understand Steve Bell. Steve Bell</p> <p>11 is a retired non-commissioned officer. He's got five</p> <p>12 tours of combat. That's how Steve Bell talks and</p> <p>13 writes. We all talk about things that are required.</p> <p>14 So if I were to go home, I would be required to bring</p> <p>15 things for my wife. That's just how we talk.</p> <p>16 Q. But what did the Secretary of State, in fact,</p> <p>17 require DPS to -- to work with the Secretary of State</p> <p>18 on the 25 mobile units?</p> <p>19 A. We did work with the Secretary of State and we</p> <p>20 knew that we were going to have to provide some sort of</p> <p>21 coverage in these counties. I think you're paying an</p> <p>22 inordinate amount of attention to the word</p> <p>23 "requirement," and I think that you and I have a</p> <p>24 different view of what the word "required" means.</p> <p>25 But we were -- it was -- that was what we</p>

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<p style="text-align: right;">285</p> <p>1 were told to do, so that's what we did. And we were</p> <p>2 told by our chain of command. I don't know how Steve</p> <p>3 wrote that. I wasn't a party to this e-mail except</p> <p>4 that I received it am some point.</p> <p>5 Q. Well, I'll put it differently.</p> <p>6 A. Please.</p> <p>7 Q. Did DPS have any discretion? Could DPS have</p> <p>8 said, "We actually don't want to work on these 25</p> <p>9 mobile units with you"?</p> <p>10 A. Wow. I don't think DPS had that kind of</p> <p>11 discretion.</p> <p>12 Q. Okay.</p> <p>13 A. That was -- that's we were asked to do, and</p> <p>14 that's what we did.</p> <p>15 Q. So to date, do you know how many EICs have</p> <p>16 been applied for?</p> <p>17 A. Yes.</p> <p>18 Q. How many?</p> <p>19 A. As of the 5th of May, 271.</p> <p>20 Q. As of May 5th.</p> <p>21 A. As of the 5th of May.</p> <p>22 Q. Do you know how many have been issued?</p> <p>23 A. 252, as of the 5th of May.</p> <p>24 Q. And those are totals statewide?</p> <p>25 A. That's correct.</p>	<p style="text-align: right;">287</p> <p>1 Q. So if, hypothetically, zero EICs had been</p> <p>2 issued, could the program still have been successful?</p> <p>3 A. Well, I suppose so. We provided a service.</p> <p>4 We were asked to provide a service. We provided a</p> <p>5 service across the State on Texas. We provided an</p> <p>6 opportunity for Texans to come and -- come to an office</p> <p>7 or come to a mobile site to -- to get a document that</p> <p>8 they felt they required in order to vote.</p> <p>9 Q. Okay. Do you have any sense of how many</p> <p>10 people in Texas do not have any of the forms of ID</p> <p>11 required by the voter ID law?</p> <p>12 A. I have no sense of that.</p> <p>13 (Exhibit No. 94 marked.)</p> <p>14 Q. (BY MS. KORGAONKAR) Exhibit 94 is Bates</p> <p>15 marked TEX-511199 through 5119200.</p> <p>16 A. Okay.</p> <p>17 Q. Do you recognize this document?</p> <p>18 A. Hang on a second. Yes.</p> <p>19 Q. And is it entitled "EIC meeting minutes,</p> <p>20 9/25"?</p> <p>21 A. Yes, it is.</p> <p>22 Q. Sent on September 25th, 2013?</p> <p>23 A. That's correct.</p> <p>24 Q. I just wanted to direct your attention to the</p> <p>25 two final bullet points under the heading "Status of</p>
<p style="text-align: right;">286</p> <p>1 Q. And that's -- those figures, 271 applications,</p> <p>2 and 252 issued?</p> <p>3 A. Yes.</p> <p>4 Q. Is in the entirety of EIC's existence?</p> <p>5 A. That's every EIC we ever issued.</p> <p>6 Q. Okay.</p> <p>7 A. 252 is every EIC we've issued.</p> <p>8 Q. Okay. So earlier, I think when Ms. Maranzano</p> <p>9 was wrapping up with you, she asked whether your --</p> <p>10 whether you felt that the success of the EICs were</p> <p>11 related to the number of those issued.</p> <p>12 Do you remember?</p> <p>13 A. I remember some discussion. I don't remember</p> <p>14 exactly what the question was.</p> <p>15 Q. So I -- my recollection is that the question</p> <p>16 had generally been whether the success of the EIC</p> <p>17 program was related to the number of EICs that had been</p> <p>18 issued by the state.</p> <p>19 A. Okay.</p> <p>20 Q. And your testimony was basically that that was</p> <p>21 not correct, that the success wouldn't be based on the</p> <p>22 number of EICs issued.</p> <p>23 A. The success of the program does not -- gauging</p> <p>24 duck success as a metric for the program does not hinge</p> <p>25 on the number of documents issued.</p>	<p style="text-align: right;">288</p> <p>1 EIC initiative in progress."</p> <p>2 A. I see them.</p> <p>3 Q. The final bullet point, could you read that</p> <p>4 aloud, the one that starts, "Voters without"?</p> <p>5 A. "The voters without photo ID cast provisional</p> <p>6 ballots. They'll have six days under law to return to</p> <p>7 a DL office with photo ID to make their vote count."</p> <p>8 Q. Is that your understanding of how provisional</p> <p>9 ballots work?</p> <p>10 A. Well, I'm not an election official. That's</p> <p>11 how I understand it to work.</p> <p>12 Q. Okay. And the previous bullet point, if you</p> <p>13 could read that out loud.</p> <p>14 A. Sure. Starts with the word "anticipate"?</p> <p>15 Q. That's right.</p> <p>16 A. "Anticipate keeping the equipment for a week</p> <p>17 after the election because of provisional ballots."</p> <p>18 Q. Can you help me understand what that -- what</p> <p>19 that means?</p> <p>20 A. Yes. So we, DPS, were under the impression --</p> <p>21 and we wanted to be able to -- to provide the</p> <p>22 opportunity for people to get their EIC during what's</p> <p>23 called a cure period, which is a period that I</p> <p>24 understand, as a layman, to be after the vote; but</p> <p>25 there's a period of time when people who, for whatever</p>

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<p style="text-align: right;">289</p> <p>1 reason, they cast that provisional ballot, they may</p> <p>2 come in and then they can prove -- they can show their</p> <p>3 EIC. So we wanted to make sure that we extended our</p> <p>4 operations to enable Texans to do that.</p> <p>5 Q. Okay. Thank you.</p> <p>6 And one other quick question. Under the</p> <p>7 heading "Documentation."</p> <p>8 A. Give me a second.</p> <p>9 Q. Sure.</p> <p>10 A. Yes.</p> <p>11 Q. In the middle bullet, it reads, "Tiffany and</p> <p>12 Andrea working to complete process for exceptions</p> <p>13 path" -- or exception "paths," rather.</p> <p>14 A. Yes.</p> <p>15 Q. What are exception paths?</p> <p>16 A. I have no clue. That's outside my area.</p> <p>17 Q. Then on the next page, under "Considerations,"</p> <p>18 the third bullet point.</p> <p>19 A. Brian Lane?</p> <p>20 Q. Exactly. If you could read that aloud.</p> <p>21 A. Brian Lane is having discussions with SOS</p> <p>22 office about security requirements for non-DPS people</p> <p>23 gathering EIC data, parens, background checks, comma,</p> <p>24 training, closed parens.</p> <p>25 Q. Can you help me understand what that one</p>	<p style="text-align: right;">291</p> <p>1 A. On the very top?</p> <p>2 Q. The one at 4:50 p.m., the second one on the</p> <p>3 first page.</p> <p>4 Mr. Bell writes, "We are trying to rework</p> <p>5 the hours from 8:00 to 5:00" --</p> <p>6 A. Wait. Wait.</p> <p>7 MR. KEISTER: Down here (indicating).</p> <p>8 She said at the end of the paragraph.</p> <p>9 THE WITNESS: Oh, I'm sorry. I was</p> <p>10 looking at the top one because they both have 4:50 time</p> <p>11 stamp.</p> <p>12 Q. (BY MS. KORGAONKAR) I'm sorry.</p> <p>13 A. It's okay. It's fine. We're good.</p> <p>14 Q. Mr. Bell writes, "We are trying to rework the</p> <p>15 hours from 8:00 to 5:00 to 9:00 to 4:00 for any future</p> <p>16 deployments."</p> <p>17 A. Yes.</p> <p>18 Q. Why was he trying to rework the hours?</p> <p>19 A. That takes into consideration the travel time</p> <p>20 for the employee to get from wherever they draw the</p> <p>21 equipment from to the site for EIC issuance. And then</p> <p>22 at the conclusion of the day -- because as I mentioned</p> <p>23 before, these are stand-alone units and they have no</p> <p>24 other connectivity, all of the information is placed</p> <p>25 onto USB drive and then the employee has to go back to</p>
<p style="text-align: right;">290</p> <p>1 means?</p> <p>2 A. Sure. Brian Lane, I think he's a deputy</p> <p>3 assistant director. He's in IT, no matter what his</p> <p>4 rank is. So what this appears to me that Brian Lane is</p> <p>5 talking with -- about the security requirements to</p> <p>6 allow DPS people to gather information.</p> <p>7 Q. Okay.</p> <p>8 A. And so because -- because we have people who</p> <p>9 are who are not DPS employees who are interacting with</p> <p>10 customers.</p> <p>11 Q. Okay. So this is about background checks for</p> <p>12 state employees who would be working on issuance of the</p> <p>13 EICs?</p> <p>14 A. That's correct, yeah. Yes.</p> <p>15 MS. KORGAONKAR: Off the record for just</p> <p>16 a minute.</p> <p>17 (Exhibit No. 95 marked.)</p> <p>18 Q. (BY MS. KORGAONKAR) I'm handing you Exhibit</p> <p>19 95.</p> <p>20 A. Yes, ma'am.</p> <p>21 Q. The exhibit is marked TEX-0511902 through 905.</p> <p>22 If you would take just a minute to review it.</p> <p>23 A. Okay.</p> <p>24 Q. In e-mail from Stephen Bell to a group of</p> <p>25 people --</p>	<p style="text-align: right;">292</p> <p>1 the office and transfer the information from the</p> <p>2 computer hard drive onto the USB into driver license</p> <p>3 systems. And so that what he's doing is this takes</p> <p>4 into consideration the administrative time on either</p> <p>5 end of the operation.</p> <p>6 Q. Were those hours reworked as he's described</p> <p>7 here?</p> <p>8 A. To the best of my knowledge, yes. I believe</p> <p>9 9:00 to 4:00 became standard.</p> <p>10 Q. Okay.</p> <p>11 (Exhibit No. 96 marked.)</p> <p>12 Q. (BY MS. KORGAONKAR) Exhibit 96 is Bates</p> <p>13 marked TEX-00462497 --</p> <p>14 A. Yes.</p> <p>15 Q. -- through 499.</p> <p>16 A. Yes.</p> <p>17 Q. If you could just take a moment.</p> <p>18 A. Okay.</p> <p>19 Q. And I wanted to direct your attention to the</p> <p>20 e-mail on the page marked 462498, the second page.</p> <p>21 A. Yes.</p> <p>22 Q. In the middle at 10:24 a.m.</p> <p>23 A. Wroe Jackson.</p> <p>24 Q. Yes, from Wroe Jackson to you.</p> <p>25 A. Okay.</p>

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<p style="text-align: right;">293</p> <p>1 Q. If you could read that e-mail.</p> <p>2 A. "Thank you, Keith has already contacted them</p> <p>3 to request the change in hours from 9:00 a.m. to</p> <p>4 4:00 p.m. with one day available for off-business hours</p> <p>5 as we discussed."</p> <p>6 Q. So who made the request to change the hours</p> <p>7 from 9:00 a.m. to 4:00 p.m.?</p> <p>8 A. As near as I can determine, they did.</p> <p>9 Q. Who is "they"?</p> <p>10 A. I don't know.</p> <p>11 Q. In the e-mail below that stems from you on</p> <p>12 October 2nd at 10:20 a.m. --</p> <p>13 A. Yes.</p> <p>14 Q. -- can you read the second sentence?</p> <p>15 A. "While the requested times are from 1100 to</p> <p>16 1900," which is 7:00 p.m. -- "the Secretary of State or</p> <p>17 sec state is working to see if we can change the</p> <p>18 hours."</p> <p>19 Q. Why was the Secretary of State working to see</p> <p>20 if the hours could be changed?</p> <p>21 A. Off the top of my head, I don't know. I could</p> <p>22 speculate.</p> <p>23 Q. Well, did the request to change the hours come</p> <p>24 from DPS, based on these e-mails?</p> <p>25 A. Possibly.</p>	<p style="text-align: right;">295</p> <p>1 A. Okay. I'm sorry.</p> <p>2 Q. Okay. So this chain discusses mobile EIC</p> <p>3 units for Hays County; is that right?</p> <p>4 A. Yes.</p> <p>5 Q. So you'll see in the e-mail from Keith Ingram</p> <p>6 to Joyce Cowan, September 24th, 2013, at 3:52 p.m.,</p> <p>7 Mr. Ingram states --</p> <p>8 A. 3:52?</p> <p>9 Q. 3:52. I apologize.</p> <p>10 A. Okay. "Excellent"? Okay.</p> <p>11 Q. He writes, "Excellent. The times are</p> <p>12 basically up to you. We think during business hours is</p> <p>13 better."</p> <p>14 Is it DPS's position that during business</p> <p>15 hours is a better time for mobile EIC units as well?</p> <p>16 A. Well, we -- for -- because of our employees,</p> <p>17 we prefer to issue the EICs during business hours.</p> <p>18 That's what we do everywhere else in the state.</p> <p>19 Q. And with respect to the actual citizens who</p> <p>20 would be applying for them, does DPS have a position as</p> <p>21 to whether business hours or non-business hours would</p> <p>22 be better for those people?</p> <p>23 A. Well, we're not open during non-business</p> <p>24 hours. Our business hours are established, as I talked</p> <p>25 about somewhere here.</p>
<p style="text-align: right;">294</p> <p>1 Q. Why did DPS ask that the hours be changed?</p> <p>2 A. Why would we want the hours changed, if that's</p> <p>3 what we asked for? Simply because 7 o'clock at night</p> <p>4 is awfully late for us to keep employees working.</p> <p>5 Q. I just want to point out in the e-mail that</p> <p>6 you sent at 10:53 a.m., it starts on the first page and</p> <p>7 ends on the second.</p> <p>8 A. Yes.</p> <p>9 Q. "Okay. Do we know which day yet? No</p> <p>10 pressure. I'm just asking."</p> <p>11 Does that refresh your recollection as to</p> <p>12 whether it was also you or DPS that asked that the</p> <p>13 hours be changed?</p> <p>14 A. Not really. Hang on a second. Possibly.</p> <p>15 Q. Okay.</p> <p>16 (Exhibit 97 marked.)</p> <p>17 Q. (BY MS. KORGAONKAR) Exhibit 97 is Bates</p> <p>18 marked TEX-00462079.</p> <p>19 A. I see it.</p> <p>20 Q. If you could just take a minute to read the</p> <p>21 chain.</p> <p>22 A. Okay. (Witness reading.)</p> <p>23 Q. In the chain --</p> <p>24 A. Hang on.</p> <p>25 Q. Sorry.</p>	<p style="text-align: right;">296</p> <p>1 Q. Right. So I understand that. My question --</p> <p>2 A. Okay.</p> <p>3 Q. -- is a little bit different. I understand</p> <p>4 that you just stated that during business hours is much</p> <p>5 better for DPS employees because, obviously, those are</p> <p>6 the hours that they generally work.</p> <p>7 A. Yes.</p> <p>8 Q. Right?</p> <p>9 Has DPS ever considered whether business</p> <p>10 hours also work better for people who would be going to</p> <p>11 use mobile EIC units?</p> <p>12 A. Not to my knowledge.</p> <p>13 Q. Okay. Did DPS request that Mr. Ingram relay</p> <p>14 this message to Hays County that business hours are</p> <p>15 better?</p> <p>16 A. I don't recall. I -- without seeing more, I</p> <p>17 don't -- I don't know.</p> <p>18 Q. So just to clarify, your testimony is that you</p> <p>19 don't recall whether this statement from Mr. Ingram</p> <p>20 was, in fact, relayed from DPS to Hays County through</p> <p>21 him?</p> <p>22 A. No.</p> <p>23 Q. Okay.</p> <p>24 (Exhibit 98 marked.)</p> <p>25 Q. (BY MS. KORGAONKAR) This is Exhibit 98.</p>

<p style="text-align: right;">297</p> <p>1 A. Okay.</p> <p>2 Q. If you could just take a minute. Exhibit 98</p> <p>3 is Bates marked TEX-511238 through 239.</p> <p>4 A. Yes.</p> <p>5 Q. Okay. So this exchange concerns Sabine</p> <p>6 County's EIC participation; is that right?</p> <p>7 A. Yes.</p> <p>8 Q. So in it a Kathy Bergman from DPS has sent to</p> <p>9 Janice McDaniel of Sabine County some information about</p> <p>10 EIC training; is that right?</p> <p>11 That's found at the e-mail from 3:20 p.m.</p> <p>12 A. From when?</p> <p>13 Q. 3:20 p.m.</p> <p>14 A. 3:20 p.m.</p> <p>15 Q. On the first page. It's confusing 'cause it's</p> <p>16 a little squished together.</p> <p>17 A. I'm not sure I'm looking at the same thing</p> <p>18 you're looking at. Oh, I see it. I see it. I see it.</p> <p>19 Okay. I'm sorry. So --</p> <p>20 Q. So do you agree that Kathy Bergman is relaying</p> <p>21 information here to Janice McDaniel of Sabine County</p> <p>22 and that that information is about EIC training?</p> <p>23 A. Yes, that's what it appears to be.</p> <p>24 Q. And then Janice McDaniel has written back to</p> <p>25 Ms. Bergman.</p>	<p style="text-align: right;">299</p> <p>1 of resources?</p> <p>2 MR. KEISTER: Object to form, calls for</p> <p>3 speculation.</p> <p>4 Go ahead.</p> <p>5 THE WITNESS: Yes.</p> <p>6 Q. (BY MS. KORGONKAR) Do you know approximately</p> <p>7 how many?</p> <p>8 A. Approximately 17.</p> <p>9 Q. And did DPS follow-up with Sabine County after</p> <p>10 this e-mail exchange to see whether there was a way</p> <p>11 that DPS could offer any resources or try to help the</p> <p>12 county fill the gap in a different way?</p> <p>13 A. DPS has reached out to Sabine County on a</p> <p>14 number of occasions and offered to provide them with a</p> <p>15 mobile EIC training and the equipment. Sabine County</p> <p>16 has declined to do that.</p> <p>17 Q. Because of the staff resource issue?</p> <p>18 A. Because of the -- because of the source issue,</p> <p>19 they have here. So Sabine County is currently being</p> <p>20 served by HHSC.</p> <p>21 Q. So did -- is it correct that DPS never reached</p> <p>22 back out to Sabine County to try to help fill the staff</p> <p>23 shortage?</p> <p>24 A. Did DPS reach out to the county to fill a</p> <p>25 county employee staff shortage, is that your question?</p>
<p style="text-align: right;">298</p> <p>1 A. Yes.</p> <p>2 Q. At 10:26 a.m.</p> <p>3 A. I see that, yeah.</p> <p>4 Q. Could you read that e-mail?</p> <p>5 A. "Ms. Bergman, Judge Watson and I have</p> <p>6 discussed the EIC participation; and we don't feel we</p> <p>7 have the staff to commit to this. I am short an</p> <p>8 employee, plus I have early voting starting next</p> <p>9 Monday. Thank you, Janice McNeil, Sabine County</p> <p>10 Clerk."</p> <p>11 Q. And then at noon that same day, it looks as</p> <p>12 though Ms. Bergman forwarded this e-mail exchange to</p> <p>13 you, to Kristopher Krueger, and a number of other</p> <p>14 people; is that right?</p> <p>15 A. That's -- yes.</p> <p>16 Q. What was DPS's reaction to Sabine County's</p> <p>17 inability to participate because of resource issues?</p> <p>18 A. So there were resource issues on the part of</p> <p>19 the county.</p> <p>20 Q. Correct.</p> <p>21 A. Okay. Well, that was -- that's Sabine</p> <p>22 County's decision to make. They still haven't been</p> <p>23 trained.</p> <p>24 Q. And are there a number of other counties that</p> <p>25 couldn't participate in the program because of a lack</p>	<p style="text-align: right;">300</p> <p>1 Q. It's little bit different. So Sabine County</p> <p>2 writes back to Ms. Bergman and says, "We want to</p> <p>3 participate, but we can't because I don't have enough</p> <p>4 staff to do it."</p> <p>5 A. Yes.</p> <p>6 Q. And my question is: Did DPS e-mail or reach</p> <p>7 back out to Sabine County and say, "How can we help you</p> <p>8 with that staff problem in order to get this EIC mobile</p> <p>9 unit up and running?"</p> <p>10 A. No.</p> <p>11 Q. And for the other counties, I think you said</p> <p>12 there were about 17 that couldn't participate because</p> <p>13 of various resource issues. Did DPS --</p> <p>14 A. Various issues.</p> <p>15 Q. Okay. So how many couldn't participate</p> <p>16 because of resource issues?</p> <p>17 A. I don't know.</p> <p>18 MR. KEISTER: Objection, calls for</p> <p>19 speculation.</p> <p>20 Q. (BY MS. KORGONKAR) So it's subset of the 17.</p> <p>21 Is that fair to say?</p> <p>22 MR. KEISTER: Speculation.</p> <p>23 THE WITNESS: Possibly.</p> <p>24 Q. (BY MS. KORGONKAR) Did DPS ever offer to</p> <p>25 help counties that had resource problems when it came</p>

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<p style="text-align: right;">301</p> <p>1 to EIC availability?</p> <p>2 A. I don't understand. You used the term "help."</p> <p>3 Can you define that, or can you rephrase the question?</p> <p>4 Q. Sure.</p> <p>5 So is it fair to say that a number of</p> <p>6 counties didn't have enough staff to be able to</p> <p>7 participate in the EIC program?</p> <p>8 MR. KEISTER: Objection, calls for</p> <p>9 speculation.</p> <p>10 THE WITNESS: I can't answer that. I</p> <p>11 don't know.</p> <p>12 Q. (BY MS. KORGONKAR) Is there anyone at DPS</p> <p>13 who would know?</p> <p>14 A. No.</p> <p>15 Q. So then how does DPS know why counties can't</p> <p>16 participate if no one at DPS knows why they can't</p> <p>17 participate?</p> <p>18 A. The county just either doesn't return the MOU</p> <p>19 or doesn't accept the training or just says they're not</p> <p>20 interested.</p> <p>21 Q. But DPS has received a number of e-mails from</p> <p>22 counties stating that they don't have enough space or</p> <p>23 money in the budget or staff to be able to participate;</p> <p>24 is that not right?</p> <p>25 A. DPS has received e-mail or communication from</p>	<p style="text-align: right;">303</p> <p>1 you're ready.</p> <p>2 A. (Witness reading.)</p> <p>3 Okay.</p> <p>4 Q. This is an e-mail exchange between you and a</p> <p>5 Ms. Lyndie Madden-Warren of Trinity County; is that</p> <p>6 right?</p> <p>7 A. Yes.</p> <p>8 Q. And it looks as though she's the tax assessor</p> <p>9 and the voter registrar from her signature; is that</p> <p>10 accurate?</p> <p>11 A. Tax assessor/collector, yes.</p> <p>12 Q. Okay. In her 9/01 e-mail to you, Ms. Warren</p> <p>13 writes, "After the initial e-mail regarding this pilot</p> <p>14 program, I responded because our county does not have a</p> <p>15 licensing department for driver's licenses."</p> <p>16 And then later in the e-mail she states,</p> <p>17 "Trinity County is a small county; and in turn, I have</p> <p>18 a small staff to provide service that we already</p> <p>19 offer."</p> <p>20 Is that right?</p> <p>21 A. That's what it says, yes.</p> <p>22 Q. Okay. And then in your response to her at</p> <p>23 9:47 a.m., you explain two different programs being run</p> <p>24 by the Department of Public Safety. And then you</p> <p>25 state, "We will remove Trinity County from the list."</p>
<p style="text-align: right;">302</p> <p>1 some counties, yes.</p> <p>2 Q. So in response to those e-mails that DPS has</p> <p>3 received, has DPS ever tried to work with those</p> <p>4 counties to address whatever the limiting reactant is</p> <p>5 and to try to enable that county to, in fact, be able</p> <p>6 to issue EICs?</p> <p>7 A. To enable the county to issue EICs?</p> <p>8 Q. To enable the citizens in the county to apply</p> <p>9 for EICs within the county.</p> <p>10 A. Yes.</p> <p>11 Q. And how has DPS done that?</p> <p>12 A. DPS sends mobile teams to those county that</p> <p>13 have not entered into the MOU, and we issue the EICs at</p> <p>14 mobile location in those counties.</p> <p>15 Q. Has DPS been able to do that with all such</p> <p>16 counties?</p> <p>17 A. Yes.</p> <p>18 THE REPORTER: This is Exhibit 100.</p> <p>19 (Discussion off the record.)</p> <p>20 THE REPORTER: This is Exhibit 99.</p> <p>21 (Exhibit No. 99 marked.)</p> <p>22 Q. (BY MS. KORGONKAR) So Exhibit 99 is Bates</p> <p>23 marked TEX-0511298 through 299.</p> <p>24 A. Yes.</p> <p>25 Q. Let's take a moment, and let me know when</p>	<p style="text-align: right;">304</p> <p>1 If you have any further questions, please don't</p> <p>2 hesitate to contact me again"; is that right?</p> <p>3 A. That's right.</p> <p>4 Q. Beyond this e-mail, did DPS offer any further</p> <p>5 assistant to Trinity County with respect to the mobile</p> <p>6 EIC program?</p> <p>7 A. We may have conducted EIC mobile operations in</p> <p>8 Trinity County, although my reference indicates that</p> <p>9 Trinity County has signed the MOU, returned -- or</p> <p>10 received their training, and their equipment is</p> <p>11 currently operational as of 5 May.</p> <p>12 Q. Okay. But that would have likely occurred</p> <p>13 after this exchange at some point?</p> <p>14 A. That's correct.</p> <p>15 Q. Do you know at what point that occurred? Can</p> <p>16 you tell me?</p> <p>17 A. No.</p> <p>18 Q. Okay. What do people in counties like Trinity</p> <p>19 County that don't have licensing departments do to</p> <p>20 apply for any other forms of DPS ID? If you need a</p> <p>21 license and you live in Trinity County, what do you do?</p> <p>22 A. They travel to a location where they can get</p> <p>23 one.</p> <p>24 Q. Do you know where the closest location is to</p> <p>25 Trinity County where someone could get one?</p>

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<p style="text-align: right;">305</p> <p>1 A. I would have to reference our website.</p> <p>2 Q. And your response would be the same with</p> <p>3 respect to personal identification cards as well,</p> <p>4 right?</p> <p>5 A. Driver's license or Texas identification</p> <p>6 cards, that's correct.</p> <p>7 Q. In general, when it comes to counties that</p> <p>8 decline to participate in the program, what were the</p> <p>9 reasons generally offered by those counties?</p> <p>10 A. The reasons could be varied. I've had</p> <p>11 conversations with the County judge that said the</p> <p>12 sheriff is the election official, and I can't make him</p> <p>13 do it. I've -- we've had exchanges with counties that</p> <p>14 say they don't have the personnel or the -- or the</p> <p>15 resources to do that. And some of them don't offer us</p> <p>16 any answer at all.</p> <p>17 Q. Okay. And are these counties generally</p> <p>18 comparatively poor counties?</p> <p>19 A. I don't know.</p> <p>20 Q. Are they generally located in specific regions</p> <p>21 of the state?</p> <p>22 A. Specific regions?</p> <p>23 Q. Are they concentrated in certain regions of</p> <p>24 the state?</p> <p>25 A. Those counties are -- please clarify which</p>	<p style="text-align: right;">307</p> <p>1 A. Yes.</p> <p>2 Q. Let me know when you have had a moment to</p> <p>3 review.</p> <p>4 A. (Witness reading.)</p> <p>5 Okay.</p> <p>6 Q. So this e-mail chain is initiated by the</p> <p>7 Dallas County Elections Department, and it concerns</p> <p>8 that county's request to work with DPS on a mobile</p> <p>9 voter ID initiative; is that right?</p> <p>10 A. That's the subject, yes.</p> <p>11 Q. And is that generally the content of the</p> <p>12 exchange as well?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. I want to direct your attention to the</p> <p>15 e-mail located at Page 462182, which is the second page</p> <p>16 of the packet.</p> <p>17 A. Yes.</p> <p>18 Q. And it's an e-mail that you sent Tuesday,</p> <p>19 September 10th at 7:29 p.m.</p> <p>20 A. Yes.</p> <p>21 Q. Okay. Could you read that e-mail?</p> <p>22 A. It says mission creep. These folks would like</p> <p>23 our DSUs at locations other than offices, semicolon,</p> <p>24 quote, appropriate public and private events, unquote,</p> <p>25 like state fairs to issue EICs. I'm not sure who would</p>
<p style="text-align: right;">306</p> <p>1 counties you're talking about in order for me to answer</p> <p>2 your question.</p> <p>3 Q. The counties that declined to participate in</p> <p>4 the program.</p> <p>5 A. Yes.</p> <p>6 Q. In general, are those distributed evenly</p> <p>7 throughout the State; or are they concentrated in</p> <p>8 certain regions of the State?</p> <p>9 A. By way -- to answer your question, I would say</p> <p>10 that they're scattered. They're across the State.</p> <p>11 Q. Would you say it's a fairly even distribution</p> <p>12 throughout the state?</p> <p>13 A. I would have to --</p> <p>14 MR. KEISTER: Objection, vague.</p> <p>15 THE WITNESS: I would say no.</p> <p>16 Q. (BY MS. KORGAONKAR) So if it's not a fairly</p> <p>17 even distribution. In general, terms where are they</p> <p>18 concentrated?</p> <p>19 A. The panhandle.</p> <p>20 Q. Do you have any sense as to why that would be?</p> <p>21 A. No.</p> <p>22 (Exhibit No. 100 marked.)</p> <p>23 (Discussion of the record.)</p> <p>24 Q. (BY MS. KORGAONKAR) This exhibit is Bates</p> <p>25 stamped TEX-00462181 through 2184.</p>	<p style="text-align: right;">308</p> <p>1 like -- who would we like to reach out to them.</p> <p>2 Q. What does "mission creep" mean?</p> <p>3 A. Mission Creep is a colloquialism. We used it</p> <p>4 just to describe a change in mission in a dynamic</p> <p>5 environment.</p> <p>6 Q. What does -- what does "creep" mean in the</p> <p>7 context of mission creep? I understand the mission.</p> <p>8 A. It's the evolution -- it's the evolution of a</p> <p>9 mission.</p> <p>10 Q. Does it mean that a mission is growing, like,</p> <p>11 creeping like a vine, for example?</p> <p>12 A. It could, or it could mean that the mission is</p> <p>13 changing in terms of what we've been asked to do.</p> <p>14 Q. Does it have any kind of connotation --</p> <p>15 A. It's a statement.</p> <p>16 Q. -- to you?</p> <p>17 A. Not to me. It's a statement.</p> <p>18 Q. Do you see how it could have a negative</p> <p>19 connotation?</p> <p>20 A. No.</p> <p>21 Q. Okay. And what are DSUs?</p> <p>22 A. Disaster support units.</p> <p>23 Q. Those are the six units that you mentioned</p> <p>24 earlier?</p> <p>25 A. That's right. And you have to understand when</p>

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<p style="text-align: right;">309</p> <p>1 this e-mail was sent in relation to the information</p> <p>2 that I provided you earlier, what they would ask for</p> <p>3 was those six disaster support units. And I would have</p> <p>4 to look and see when we constituted the 25 units to</p> <p>5 satisfy the mobile requirement.</p> <p>6 Q. Okay. Since your -- it's your -- I just want</p> <p>7 to be clear. Your testimony is that mission creep has</p> <p>8 no negative connotation whatsoever?</p> <p>9 A. Not to me.</p> <p>10 Q. Okay.</p> <p>11 MS. KORGAONKAR: Let's take a final</p> <p>12 break, and then I think we'll be done shortly.</p> <p>13 THE REPORTER: Off the record.</p> <p>14 (Recess from 5:43 p.m. to 5:51 p.m.)</p> <p>15 THE REPORTER: Back on the record.</p> <p>16 Q. (BY MS. KORGAONKAR) So you stated earlier</p> <p>17 that HHSC employees are being trained --</p> <p>18 A. Yes, I did.</p> <p>19 Q. -- in certain counties to issue EICs; is that</p> <p>20 right?</p> <p>21 A. That's what I said, yes.</p> <p>22 Q. When was it decided that those employees would</p> <p>23 accept the EIC applications?</p> <p>24 A. To the best of my recollection, it was</p> <p>25 sometime in February or March, sometime in that time</p>	<p style="text-align: right;">311</p> <p>1 employees who will be accepting the applications?</p> <p>2 A. Yes.</p> <p>3 Q. What kind of training?</p> <p>4 A. It's training that's similar to the training</p> <p>5 that we've provided to the county employees to</p> <p>6 familiarize the HHSC employee with everything that he</p> <p>7 or she would need to know in order to issue an election</p> <p>8 certificate.</p> <p>9 Q. Okay. And was -- was that training provided</p> <p>10 from Austin, or was it provided by a regional manager</p> <p>11 or regional commander?</p> <p>12 A. The training to HHSC employees was provided by</p> <p>13 a DPS employee, and we refer to those DPS employees as</p> <p>14 facilitators.</p> <p>15 Q. Okay. And has any notice gone out to the</p> <p>16 public at large concerning EIC availability from HHSC</p> <p>17 offices?</p> <p>18 A. I'm unaware. I don't know.</p> <p>19 Q. And you don't know whether DPS has issued any</p> <p>20 kind of notices to that effect?</p> <p>21 A. No, ma'am, I don't.</p> <p>22 Q. Do you know whether any of the HHSC office</p> <p>23 that will be accepting EIC applications are also able</p> <p>24 to provide certified copies of birth records?</p> <p>25 A. I don't know what other services HHSC provides</p>
<p style="text-align: right;">310</p> <p>1 period. It may have been as early as January. I</p> <p>2 honestly can't recall.</p> <p>3 Q. And whose decision was it?</p> <p>4 A. Well, whoever is in charge of HHSC.</p> <p>5 Q. What type of HHSC employees are being trained?</p> <p>6 A. I don't understand their structure or the</p> <p>7 proper titles of the employees. Based on my discussion</p> <p>8 with -- with the gentleman who have I have been working</p> <p>9 with at HHSC, I'm given to understand that their HHSC</p> <p>10 employees whose duty station is -- is one of those</p> <p>11 seven counties that they're going to work in. And I</p> <p>12 know that one of them is a registered nurse. But other</p> <p>13 than that, I don't exactly why they do.</p> <p>14 Q. Okay. And do you know what type of presence</p> <p>15 HHSC has in counties where it's issuing EICs in those</p> <p>16 seven counties?</p> <p>17 A. Over and above the one or two people that I've</p> <p>18 been made aware of or I might be a party on e-mails</p> <p>19 that might be in a certain county, no.</p> <p>20 Q. So you don't know really know what they have</p> <p>21 in those counties, what kind of presence, how many</p> <p>22 employees?</p> <p>23 A. No. I have a hard enough time keeping track</p> <p>24 with DPS stuff.</p> <p>25 Q. Okay. And has DPS provided training to those</p>	<p style="text-align: right;">312</p> <p>1 in their offices.</p> <p>2 Q. And how many -- strike.</p> <p>3 It's HHSC offices; is that right?</p> <p>4 A. Yes. It's -- it's seven -- it's HHSC offices</p> <p>5 in seven counties.</p> <p>6 Q. Okay. Thank you.</p> <p>7 A. I don't know how many offices they are.</p> <p>8 Q. Okay. Understood. Thank you.</p> <p>9 Is DPS currently using all of the</p> <p>10 equipment that it has purchased to facilitate the</p> <p>11 remote acceptance of EIC applications?</p> <p>12 A. All of what equipment?</p> <p>13 Q. All of the equipment that you would have</p> <p>14 mentioned earlier that goes with mobile EIC stations'</p> <p>15 all of the printers, computers, cables, blue screens.</p> <p>16 A. So --</p> <p>17 Q. Cameras.</p> <p>18 A. I understand your question to be: Did we</p> <p>19 break it apart?</p> <p>20 Q. No. The question --</p> <p>21 A. Okay.</p> <p>22 Q. -- is all -- of all of those pieces of</p> <p>23 equipment that was purchased for the purpose of using</p> <p>24 the mobile EIC stations, is every piece of equipment in</p> <p>25 use currently?</p>

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<p style="text-align: right;">313</p> <p>1 A. Every piece of equipment that was purchased -- 2 and again, I don't know who actually paid for it -- 3 that was configured into an EIC set remains in the EIC 4 set, except for the bench stock that I mentioned 5 before, which is used for testing. 6 Q. Okay. So are there any -- was any equipment 7 purchased that was not configured? 8 A. I don't believe so, no. 9 Q. Okay. And are all of the configured kits 10 being used right now throughout the State somewhere to 11 accept mobile EIC applications? 12 A. I don't believe so, no. 13 Q. Do you have an estimate about how many kits 14 might be unused at this moment? 15 A. I don't -- I don't know. I know -- I know 16 that -- that some of those kits are being used by 17 employees and -- and that there's a schedule for those 18 kits to be deployed to sites to issue EICs. I know 19 that we have issued 55 of those kits to counties, and I 20 know that we're in the -- somewhere in the process of 21 issuing up to seven of those kits to HHSC; but I can't 22 provide you the granularity of which kit's being 23 currently used, which kit was used today, or which kit 24 was used tomorrow. 25 Q. So for the kits that you mentioned, there are</p>	<p style="text-align: right;">315</p> <p>1 Q. Are there any plans to purchase more kits? 2 A. Not that I'm aware of. 3 Q. Why were there only seven HHSC counties 4 selected to participate? 5 A. Because that's the number of -- of counties 6 that HHSC offered to provide employees for based on the 7 78 counties that don't have driver license offices 8 and -- and -- and haven't also received the EIC 9 equipment or training. 10 Q. Did DPS ask HHSC whether it was willing to 11 participate in more than seven counties? 12 A. I don't recall. I don't know. I was not a 13 party to any of those discussions. 14 Q. Okay. Do you know what the largest county is 15 without a driver's license office? 16 MR. KEISTER: Objection, vague. 17 THE WITNESS: Yeah. 18 Q. (BY MS. KORGANOKAR) Do you know what the 19 geographic largest county is that doesn't have a 20 driver's license office? 21 A. I have no idea. 22 Q. Do you know what the county with -- do you 23 know what the most populous county without a driver's 24 license office is? 25 A. I do not know.</p>
<p style="text-align: right;">314</p> <p>1 employees using right now, what are they using them 2 for? 3 A. Well, we're currently issuing EICs. Well, not 4 right now; but I mean, today we're issuing EICs. 5 Q. So are there any kits that are configured 6 today -- 7 A. Right. 8 Q. -- to issue EICs remotely but that are not 9 being used for that purpose, that are lying around? 10 A. Not -- I don't believe so, no. 11 Q. So each configured EIC kit is out there being 12 used for EICs? 13 A. Again, it would depend on the schedule that 14 that unit's being -- that that unit's -- that the 15 schedule for that unit. So a unit may sit in an office 16 today; but if it's going to Glasscock County tomorrow, 17 then it would be used tomorrow. So I suppose strictly 18 speaking about it, the narrow parameters of your 19 question, it wasn't used today; but it will be used 20 tomorrow. 21 Q. Okay. So they're all -- all the configured 22 ones are in circulation; is that fair to say? 23 A. That's a good characterization. 24 Q. You would agree with that? 25 A. I would agree with it.</p>	<p style="text-align: right;">316</p> <p>1 MS. KORGANOKAR: I'm done. 2 MS. MARANZANO: I don't have anything 3 further, but I just want to say for the record that 4 because we had a disagreement about an instruction that 5 was given we're going to hold the deposition open. 6 MR. KEISTER: Okay. Well, I have a few 7 questions. I promise not to use up an hour. 8 EXAMINATION 9 BY MR. KEISTER: 10 Q. Mr. Rodriguez, pursuant to the deposition 11 notice did you bring documents with you today that you 12 relied on in preparing for this deposition? 13 A. Yes, sir, I did. 14 Q. Okay. Would you please pull out Exhibits 82 15 and 83. And would you look at Exhibit 83, please? 16 A. Yes. 17 Q. Is Exhibit 83 a document that you brought 18 today for use in the deposition that you relied on in 19 preparing for the deposition? 20 A. Yes, sir. 21 Q. Could you tell us briefly what Exhibit 83 is? 22 A. Exhibit 83 is a printout of the spreadsheet 23 that we used to collect EIC application information. 24 Q. Okay. And where is this Exhibit 83? What is 25 it printed out from?</p>

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<p style="text-align: right;">317</p> <p>1 A. It's printed out from the spreadsheet that's 2 maintained on the SharePoint site -- 3 Q. Okay. 4 A. -- the DPS SharePoint site. 5 Q. Okay. And is there a -- is there a name for 6 that site? 7 A. The DPS SharePoint site. That's -- that's 8 what I call it. 9 Q. Okay. Is that referred to as the dashboard? 10 A. The dashboard is a document that's derived 11 from the information available on the SharePoint site. 12 Q. Okay. Would you hand this document to the 13 court reporter and ask her to mark it, please? 14 (Exhibit No. 101 marked.) 15 THE REPORTER: Exhibit 101. 16 Q. (BY MR. KEISTER) Can you identify 17 Exhibit 101, please? 18 A. Yes, sir. Exhibit 101 essentially is 19 Exhibit 83, however what we -- for legibility purposes, 20 what -- what I asked the analyst to do was to collapse 21 some of the cells, some of the columns that -- that are 22 not relevant to EIC issuance, and the information 23 contained in those columns is administrative 24 information. 25 Q. Okay. Are all of the same EIC issuances that</p>	<p style="text-align: right;">319</p> <p>1 A. -- or counties. 2 Q. And with respect to Exhibit 83, 101, and 3 Exhibit 82, when were those documents printed out? 4 A. We asked for these -- I asked for these 5 documents to be printed out -- I believe it was -- it 6 was this week, and I believe the date was Tuesday. 7 Q. Okay. And does that mean that these documents 8 contained all the information as of Tuesday with 9 respect to the issuances and the inquiries? 10 A. Yes. 11 MS. KORGAONKAR: Objection, leading. 12 THE WITNESS: And she hasn't said that 13 before. 14 Q. (BY MR. KEISTER) Okay. That's fine. That's 15 fine. Just keep all those in front of you. 16 Okay. Do you have Exhibit 80 in front of 17 you? 18 A. Yes, sir. 19 Q. Is Exhibit 80 a document that you brought to 20 the deposition today? 21 A. Yes, sir, it is. 22 Q. Okay. And is this a document you relied upon 23 in preparation for the deposition? 24 MS. KORGAONKAR: Objection, leading. 25 Q. (BY MR. KEISTER) You can answer.</p>
<p style="text-align: right;">318</p> <p>1 are listed on 101 also listed on Exhibit -- 2 A. 83? 3 Q. -- 83? 4 A. Yes, sir. Yeah. 5 Q. Okay. 6 MR. HAYGOOD: Can we get a look at 83, do 7 you mind? 8 MR. KEISTER: Yeah. But I don't know 9 about -- if I get them messed up what we're going to 10 do. 11 Q. (BY MR. KEISTER) Can you take a look at 12 Exhibit 82, please. 13 A. Yes, sir. 14 Q. Is Exhibit 82 a document that you brought 15 today to the deposition? 16 A. Yes, sir, it is. 17 Q. Okay. And can you identify what Exhibit 82 18 is? 19 A. Yes, sir. Exhibit 82 contains information -- 20 it's a printed copy of the information from our -- from 21 a spreadsheet that's resident on our SharePoint site, 22 and the information deals with -- excuse me -- 23 inquiries that are made either at mobile or brick and 24 mortar offices -- 25 Q. Okay.</p>	<p style="text-align: right;">320</p> <p>1 A. Okay. Yes. 2 Q. Okay. Can you tell us what Exhibit 80 is, 3 please? 4 A. Exhibit 80 is referred to as titled. It's an 5 EIC dashboard. And a dashboard is just a depiction of 6 information on a -- on a printed document. 7 Q. Okay. And when was this document printed out? 8 A. This document was -- was also printed on 9 Tuesday. 10 Q. Okay. And does this document contain 11 up-to-date information as of Tuesday? 12 A. As of Tuesday, yes, sir. 13 Q. Okay. Let me ask you to hand this document to 14 the court reporter and have her mark it. 15 (Exhibit No. 102 marked.) 16 THE REPORTER: Exhibit 102. 17 Q. (BY MR. KEISTER) Can you identify 18 Exhibit 102, please? 19 A. Exhibit 102 shows -- it's a three-page 20 document. It shows the -- the number or the -- it 21 enumerates the invalid applications for 2013 and for 22 2014. 23 Q. Okay. And is Exhibit 102 a document that you 24 brought to the deposition today? 25 A. Yes, sir.</p>

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<p style="text-align: right;">321</p> <p>1 Q. Okay. And does Exhibit 102 contain</p> <p>2 information current as of the date that it was printed</p> <p>3 out?</p> <p>4 A. Yes, sir, as of Tuesday.</p> <p>5 Q. Okay. Thank you.</p> <p>6 Would you pass this to the court reporter</p> <p>7 and ask her to mark it, please?</p> <p>8 THE REPORTER: Thank you.</p> <p>9 (Exhibit No. 103 marked.)</p> <p>10 THE REPORTER: Exhibit 103.</p> <p>11 Q. (BY MR. KEISTER) Can you identify</p> <p>12 Exhibit 103, please?</p> <p>13 A. Exhibit 103 are -- are a series of map charts</p> <p>14 that -- that are used during our daily updates to</p> <p>15 provide us with situational awareness on the status of</p> <p>16 EIC operations across the state.</p> <p>17 Q. And what type information does the map charts</p> <p>18 on Exhibit 103 provide?</p> <p>19 A. The map chart is color coded by county.</p> <p>20 There's a legend in the lower left-hand side along with</p> <p>21 the as of date of the -- of the production of this --</p> <p>22 of that particular document. And it shows the status</p> <p>23 of each county, vis-à-vis driver license, EIC</p> <p>24 operations, the county issuing EICs, whether the status</p> <p>25 of the county has returned their MOU, if the county</p>	<p style="text-align: right;">323</p> <p>1 clipped documents are contained within that exhibit,</p> <p>2 please?</p> <p>3 A. Nine.</p> <p>4 Q. Okay. Thank you, sir.</p> <p>5 Would you pass this document to the court</p> <p>6 reporter, please?</p> <p>7 THE REPORTER: Thank you.</p> <p>8 (Exhibit No. 104 marked.)</p> <p>9 THE REPORTER: Exhibit 104.</p> <p>10 Q. (BY MR. KEISTER) Can you identify</p> <p>11 Exhibit 104, please?</p> <p>12 A. Yes, sir.</p> <p>13 Q. What is Exhibit 104?</p> <p>14 A. Exhibit 104 is the driver license division</p> <p>15 customer operations organization chart. It's also</p> <p>16 referred to as an org chart. And what it does is it</p> <p>17 provides the hierarchical structure for each of our DPS</p> <p>18 regions, 1A through 6B. It shows the chain of command,</p> <p>19 the supervisory chain of command; it lists the offices</p> <p>20 within each region; and it also lists the city where</p> <p>21 the office is resident and the employees at that office</p> <p>22 or it shows if there's a vacancy in that office.</p> <p>23 Q. Okay. Is that a document that you brought</p> <p>24 today to the deposition that you relied upon in</p> <p>25 preparation for the deposition?</p>
<p style="text-align: right;">322</p> <p>1 needs to be trained in the EIC of issuance or if</p> <p>2 they're experiencing -- in this instance the county</p> <p>3 has -- has equipment issues.</p> <p>4 There's also on -- on further -- or on</p> <p>5 subsequent documents there's also a small data block in</p> <p>6 the top left-hand corner that provides the -- the as of</p> <p>7 date. It provides the number of EICs that were issued,</p> <p>8 the number of EICs that -- the approval for which is</p> <p>9 pending, the EICs that have not been approved, and the</p> <p>10 total number of transactions. And then below that is</p> <p>11 what -- what I refer to as a slant report, which merely</p> <p>12 provides those -- those numbers that are rolled up on a</p> <p>13 single line of information.</p> <p>14 Q. Okay. Is there any other documentation within</p> <p>15 those reports or attached to those reports?</p> <p>16 A. On the back -- on the second -- the second</p> <p>17 slide, what that shows -- or the subsequent slides,</p> <p>18 what they show are they show that the -- the date,</p> <p>19 time, region, county, location, and -- and the status</p> <p>20 of that location for EIC units across the state of</p> <p>21 Texas. And when I say "verified by the column of</p> <p>22 information" means that one of our employees has gone</p> <p>23 to that location and has ensured that the location is</p> <p>24 suitable for our needs in the EIC operations.</p> <p>25 Q. Okay. And how many -- how many separate</p>	<p style="text-align: right;">324</p> <p>1 MS. KORGAONKAR: Objection, leading.</p> <p>2 THE WITNESS: I relied on this in</p> <p>3 preparation for my deposition.</p> <p>4 Q. (BY MR. KEISTER) And you brought that today?</p> <p>5 A. And I brought it with me.</p> <p>6 Q. Pass that to the court reporter to be marked,</p> <p>7 please.</p> <p>8 (Discussion off the record.)</p> <p>9 (Exhibit No. 105 marked.)</p> <p>10 THE REPORTER: Exhibit 105.</p> <p>11 Q. (BY MR. KEISTER) Can you identify</p> <p>12 Exhibit 105, please?</p> <p>13 A. Exhibit 105 are a series -- pardon me -- are a</p> <p>14 series of sheets of paper. They're organized by DPS</p> <p>15 region. There's multiple pages per region. What it</p> <p>16 shows is it provides more information for the</p> <p>17 hierarchical structure of the DPS regions. It provides</p> <p>18 the chain of command, the office supervisors, their</p> <p>19 contact information; phone, fax, cell, and also their</p> <p>20 physical location, their duty -- their duty location.</p> <p>21 On subsequent pages it provides the -- the physical</p> <p>22 location, the street location for each office; the</p> <p>23 station number; the area number, which is -- which is</p> <p>24 an archaic term. We used to use that when -- when</p> <p>25 commissioned personnel were in charge of those offices,</p>

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<p style="text-align: right;">325</p> <p>1 but we still reflect it anyway. It reflects the days 2 that are open, it reflects the hours of operation of 3 each office, and it also reflects the contact 4 information; telephone numbers and fax for each. And 5 it does that for DPS Regions 1A through 6B -- 6B. 6 Q. Okay. Is this information reflected in that 7 document current as of today? 8 MS. KORGAONKAR: Objection, leading. 9 THE WITNESS: This information is current 10 as of the time that it was printed, which I believe was 11 Tuesday. 12 Q. (BY MR. KEISTER) Okay. Do you have any 13 reason to think any of those offices have changed 14 between now and Tuesday? 15 A. No, sir. 16 Q. Okay. Is Exhibit -- 17 A. 105. 18 Q. -- 105 a document that you brought today for 19 this deposition? 20 A. I did, yes, sir. 21 Q. Is it a document that you relied upon in 22 preparation for this deposition? 23 A. Yes, sir. 24 Q. And with respect to -- I may have asked you 25 this, but I don't remember. With respect to</p>	<p style="text-align: right;">327</p> <p>1 issuances of the EICs? 2 A. We began tracking EIC issuances and inquiries 3 at the -- at the beginning of the program. 4 Q. Okay. And how did DPS track the issuance of 5 EICs at the beginning of the program? 6 A. The -- the way we used -- the method we used 7 to track it, the -- that information was that the 8 regional managers would consolidate that information 9 and provide it to me, generally speaking, through 10 e-mail. And if I am not mistaken, it was done several 11 times a day. And that -- that went on for about a 12 week, and then I would produce a -- a weekly report 13 that I referred to earlier. 14 Q. Okay. And the reports you referred to 15 earlier, how were -- how were they styled? What were 16 they called? 17 A. I believe it was just called EIC report, or it 18 may have been referred to as a daily or a weekly EIC 19 report. 20 Q. Okay. 21 A. I would need to see for certain. I need to go 22 back and look at it. 23 Q. If -- well, that's fine. 24 A. Okay. 25 Q. Yeah. How long did you prepare the EIC</p>
<p style="text-align: right;">326</p> <p>1 Exhibit 104 -- 2 A. Yes. 3 Q. -- is the information contained within 4 Exhibit 104 current as of today? 5 MS. KORGAONKAR: Objection, leading. 6 THE WITNESS: This information that's 7 reflected on 104 is current as of when it was printed 8 on Tuesday. 9 Q. (BY MR. KEISTER) Okay. Do you have any 10 reason to think there's been any changes between 11 Tuesday and today? 12 A. No. The -- the only changes may be some 13 employees who -- who are working who may have been 14 employed or may have left the employ. But -- but 15 the -- the majority of the information in terms of 16 office supervisors, assistant manager, and the rest of 17 the chain of command should remain the same. 18 Q. Okay. 19 A. And maybe some -- and maybe some 20 discrepancies. 21 Q. Okay. Thank you. 22 Have we identified all of the documents 23 that you brought for the deposition today? 24 A. These are -- yes, sir. 25 Q. Okay. When did the DPS begin tracking the</p>	<p style="text-align: right;">328</p> <p>1 reports? 2 A. I prepared the EIC reports and I sent them 3 until, roughly, the beginning of November. 4 Q. Okay. Did anyone else in the agency prepare 5 EIC reports or were you the only one? 6 A. From the beginning of the program until about 7 the beginning of December, I was the only one that did 8 that with -- with the exception of -- I believe there 9 was a day or so that I had gone on leave, on vacation, 10 and -- and I was unavailable to collect the 11 information, so -- I left, so somebody had done that. 12 And I can't remember if it was either Steve Bell or 13 Paul Watkins, one of those. 14 Q. Okay. Why did you discontinue the preparation 15 of the EIC reports? 16 A. Because it was extremely time-consuming. 17 Q. Okay. Any other reasons? 18 A. Well, there -- there was the -- the potential 19 for errors. And I spent a lot of time going back and 20 finding out -- you know, confirming the information 21 that I had been given. 22 Q. Okay. Did the department, DPS, continue 23 tracking EIC issuances after you discontinued your 24 preparation of the EIC reports? 25 A. Yes.</p>

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<p style="text-align: right;">329</p> <p>1 Q. How did that tracking go forward or continue?</p> <p>2 A. There's an analyst -- one of our analysts</p> <p>3 named Ryan O'Connor, and Ryan was asked to work with me</p> <p>4 on -- on the -- on the data tracking, on EIC tracking.</p> <p>5 And Ryan and I had a discussion about how we should</p> <p>6 track EICs. And, as a consequence, he began -- he</p> <p>7 began to collect it, the information, on a spreadsheet</p> <p>8 that he kept, and he would produce some documents.</p> <p>9 Q. Okay. Did -- did Ryan create EIC reports like</p> <p>10 you did and circulate those reports as you did?</p> <p>11 A. No.</p> <p>12 Q. Okay. What happened to the information that</p> <p>13 Ryan would collect?</p> <p>14 A. Ryan collected the report -- or the</p> <p>15 information -- excuse me -- and he would provide what</p> <p>16 can be best categorized as -- as an ad hoc report. So</p> <p>17 if somebody were to want -- want specific -- an updated</p> <p>18 EIC information, Ryan would print the -- the tables</p> <p>19 from the Excel spreadsheet and they would provide it to</p> <p>20 that individual.</p> <p>21 Q. Okay. Did there come a time when Ryan</p> <p>22 discontinued his participation in the tracking of EICs?</p> <p>23 MS. KORGAONKAR: Objection, leading.</p> <p>24 THE WITNESS: Yes.</p> <p>25 Q. (BY MR. KEISTER) And do you know when that</p>	<p style="text-align: right;">331</p> <p>1 we can pull -- we can pull ad hoc queries or we can</p> <p>2 print pages or tables or whatever we decide -- whatever</p> <p>3 information we decide we decide we need we can print</p> <p>4 from that database.</p> <p>5 Q. Do any of the documents that you brought to</p> <p>6 the deposition today demonstrate how -- how that --</p> <p>7 that tracking system works?</p> <p>8 MS. KORGAONKAR: Objection, leading.</p> <p>9 THE WITNESS: The documents that I</p> <p>10 brought with me, what they do is they --</p> <p>11 Q. (BY MR. KEISTER) And you can refer to them --</p> <p>12 A. I'm going to have to.</p> <p>13 Q. -- by exhibit numbers.</p> <p>14 A. Okay. So the CSR inputs information onto the</p> <p>15 SharePoint site and that serves to populate Exhibit</p> <p>16 No. 83, okay, or Exhibit No. 82, depending on -- on</p> <p>17 whether it's an issuance or it's an inquiry. I won't</p> <p>18 talk about that because it's the same things.</p> <p>19 Q. Okay.</p> <p>20 A. Okay. And based on that, then there's a -- a</p> <p>21 document that's -- there's a link -- hyperlink to -- on</p> <p>22 our website, on the -- the SharePoint site, and the</p> <p>23 hyperlink is -- is called EIC executive dashboard. And</p> <p>24 that is depicted on Exhibit No. 80. And what that is</p> <p>25 is that's an Excel spreadsheet with a number of tabs</p>
<p style="text-align: right;">330</p> <p>1 was?</p> <p>2 A. It was -- it was the winter -- it was December</p> <p>3 of '13 or early in January of '14.</p> <p>4 Q. Okay. Did the DPS continue tracking EIC</p> <p>5 issuances after Ryan discontinued or -- or stopped his</p> <p>6 participation?</p> <p>7 A. Yes.</p> <p>8 Q. How did the -- how did DPS track EIC</p> <p>9 issuances?</p> <p>10 A. We -- what we did was, we moved the -- the</p> <p>11 information, the spreadsheet, that Ryan was maintaining</p> <p>12 from his computer onto a SharePoint site. So that</p> <p>13 was -- that was the first part of it. And the second</p> <p>14 part was -- was the important part, because Ryan and I</p> <p>15 had a discussion that -- you know, we were still</p> <p>16 collecting information the same way. And -- and so</p> <p>17 what Ryan suggested was a better way to collect the</p> <p>18 information. And that gave birth to the -- its current</p> <p>19 form where the -- the input is available on the DPS</p> <p>20 share point site and the CSR can -- can go to that site</p> <p>21 and can enter the information about an EIC issuance or</p> <p>22 an inquiry directly into the share point site. And</p> <p>23 then that's kept -- that's kept resident. That updates</p> <p>24 the spreadsheet.</p> <p>25 And then from that spreadsheet we can --</p>	<p style="text-align: right;">332</p> <p>1 associated with that spreadsheet. And we've discussed</p> <p>2 some of these tabs earlier today.</p> <p>3 Q. Okay. To your knowledge, does anyone at DPS</p> <p>4 create an EIC report as you did last year based upon</p> <p>5 the information that is kept on the -- on the share</p> <p>6 site?</p> <p>7 A. No, sir. We discontinued that when I stopped</p> <p>8 producing the report.</p> <p>9 Q. Okay. Thank you, sir.</p> <p>10 MR. KEISTER: I'll pass the witness.</p> <p>11 MS. KORGAONKAR: I have one question --</p> <p>12 or two questions, rather, about the documents that --</p> <p>13 that you were just looking at with Mr. Keister.</p> <p>14 FURTHER EXAMINATION</p> <p>15 BY MS. KORGAONKAR:</p> <p>16 Q. The first is, you testified earlier that</p> <p>17 271 EICs had been applied for --</p> <p>18 A. Yes.</p> <p>19 Q. -- is that right? Is that number reflected in</p> <p>20 any of these exhibits?</p> <p>21 A. Yes.</p> <p>22 Q. Can you direct me to that, please?</p> <p>23 A. Yes.</p> <p>24 (Discussion off the record.)</p> <p>25 THE WITNESS: It's the last page of</p>

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<p style="text-align: right;">333</p> <p>1 that -- of that exhibit.</p> <p>2 Q. (BY MS. KORGAONKAR) So, for the record, you</p> <p>3 are indicating the last page of Exhibit 103?</p> <p>4 A. I'm sorry. I misspoke. It's -- it's -- I'll</p> <p>5 keep it together. It's this packet.</p> <p>6 Q. So it's the first page of the last packet in</p> <p>7 Exhibit 103 --</p> <p>8 A. Yes.</p> <p>9 Q. -- is that right? Okay. And is that the same</p> <p>10 document that indicates the number of EICs that have</p> <p>11 been issued?</p> <p>12 A. Yes. If you refer to the block in the upper</p> <p>13 left-hand corner, do you see the text that's there?</p> <p>14 Q. I do.</p> <p>15 A. That -- that establishes the information that</p> <p>16 you're asking.</p> <p>17 MS. KORGAONKAR: And we just want to</p> <p>18 request that the State of Texas produce the documents</p> <p>19 that you all brought with you today in native format to</p> <p>20 the plaintiffs with the appropriate metadata.</p> <p>21 MR. KEISTER: I'm sorry. I don't make</p> <p>22 discovery agreements on the record. I'll be happy to</p> <p>23 entertain whatever discovery we need to do.</p> <p>24 MS. MARANZANO: I have a quick follow-up</p> <p>25 question.</p>	<p style="text-align: right;">335</p> <p>1 list, I would have to see some of those e-mails that I</p> <p>2 did. I can -- I can answer as best I ask.</p> <p>3 Q. Would looking at a previous exhibit help</p> <p>4 refresh your recollection?</p> <p>5 A. Tremendously, yes.</p> <p>6 Q. Okay. Let's see. I don't have the numbers in</p> <p>7 front of me, but I believe -- perhaps I could look at</p> <p>8 the pile of exhibits.</p> <p>9 A. You're going to need a wheelbarrow.</p> <p>10 THE REPORTER: Well, they were in order.</p> <p>11 MS. MARANZANO: No, I think it's ones</p> <p>12 that we introduced today.</p> <p>13 Q. (BY MS. MARANZANO) Do you have all of the</p> <p>14 exhibits in front of you that --</p> <p>15 A. I have the ones that we introduced.</p> <p>16 Q. Is that the one --</p> <p>17 A. These ones?</p> <p>18 MR. KEISTER: You can stop typing until</p> <p>19 we get it sorted. You're not going to do it?</p> <p>20 MS. MARANZANO: Okay. Are we still on</p> <p>21 the record?</p> <p>22 THE REPORTER: Yes.</p> <p>23 Q. (BY MS. MARANZANO) Can I show you what we</p> <p>24 previously marked as Exhibit 74. Is that an example of</p> <p>25 one of your weekly reports?</p>
<p style="text-align: right;">334</p> <p>1 Are you done?</p> <p>2 MR. KEISTER: I am.</p> <p>3 MS. MARANZANO: Okay.</p> <p>4 FURTHER EXAMINATION</p> <p>5 BY MS. MARANZANO:</p> <p>6 Q. I believe when your counsel was asking you</p> <p>7 questions, Mr. Rodriguez, he asked you to compare the</p> <p>8 reports that Ryan O'Connor had made to the reports</p> <p>9 that -- weekly reports that you made, and he asked you</p> <p>10 to compare the circulation of those reports. Do you</p> <p>11 recall that?</p> <p>12 A. No.</p> <p>13 Q. Let me ask you this. Can you describe the</p> <p>14 circulation of the weekly reports?</p> <p>15 A. Okay. So we -- we have to understand that</p> <p>16 when I produced the documents that I produced from June</p> <p>17 to the beginning of November, that's what I call a</p> <p>18 report. Okay? And -- and the circulation of that</p> <p>19 report that was e-mailed, as I said before, would be</p> <p>20 pushed out, sent in an e-mail form, to -- to different</p> <p>21 people in DPS; regional managers and other people who</p> <p>22 were involved in the EIC process.</p> <p>23 Q. So can you list everybody who it was sent to</p> <p>24 for me?</p> <p>25 A. I would have to -- if you want an exhaustive</p>	<p style="text-align: right;">336</p> <p>1 A. This is an example of one of my weekly</p> <p>2 reports, yes.</p> <p>3 Q. Does that help refresh your recollection as to</p> <p>4 who it was circulated to?</p> <p>5 A. Well, not entirely. This is a partial list of</p> <p>6 people who would get it.</p> <p>7 Q. And who's on that list?</p> <p>8 A. Well, I'm on it. Kristopher Krueger, who</p> <p>9 is -- is one of our strategic analysts; Lisa Daughtry,</p> <p>10 who works at license and records services; Ryan</p> <p>11 O'Connor, who was -- who was helping me collect</p> <p>12 tracking information; Maria Flores is a -- is an</p> <p>13 assistant manager in one of the two regions. She's not</p> <p>14 in mine. I don't know. And Raquel Ramirez is an</p> <p>15 assistant manager in Region 3.</p> <p>16 Q. Did you send these reports to -- to</p> <p>17 Mr. McCraw?</p> <p>18 A. I believe he may be on some of the</p> <p>19 distribution, yes.</p> <p>20 Q. Did you send these reports to anybody outside</p> <p>21 DPS?</p> <p>22 A. I don't recall having done that. I may have.</p> <p>23 Q. Okay. Did you send these reports to the DPS</p> <p>24 commission?</p> <p>25 A. The DPS commission?</p>